

No. 10389

United States
Circuit Court of Appeals
For the Ninth Circuit. 2

CONSOLIDATED AIRCRAFT CORPORA-
TION,

Petitioner,

vs.

NATIONAL LABOR RELATIONS BOARD,
Respondent.

Transcript of Record
In Two Volumes
VOLUME II
Pages 497 to 946

Upon Petition for Review and Enforcement of an Order
of the National Labor Relations Board

FILED

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PAUL P. O'BRIEN,
CLERK

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Mr. Harrington: Mr. H. C. Brown.

HARVEY C. BROWN

called as a witness by and on behalf of the National Labor Relations Board, having been first duly sworn, was examined and testified as follows:

Direct Examination

Q. (By Mr. Harrington) Will you give your name and address to the reporter?

A. Harvey C. Brown, 1133 4th Street, San Diego.

Q. Are you a member of the union?

A. That is right.

Q. And do you hold any position in the union?

A. I do. [391]

Q. What is that position?

A. Handling publicity.

Q. Do you have any title?

A. Editor, public relations director, whatever they want to call me.

Q. How long have you held that position?

A. Approximately two years.

Q. Do you have anything to do with the union membership in the Consolidated plant?

A. Well, being in a rather peculiar position, there are times when I have been called upon to give information to the membership, when the business agents or someone else in authority is not there.

Q. Were you called on in December of 1941 to do so? A. In reference to Sunday work I was.

Q. When was that?

A. That happened immediately prior to the Sunday following the attack on Pearl Harbor.

(Testimony of Harvey C. Brown.)

Q. Can you explain what happened?

A. The representative at that time was W. J. Chudleigh, who was president of our organization, and R. B. Felton, who was the business representative. Both of them happened to be absent at the time, and L. A. Perry, who was then financial secretary, had received some communications through the telephone that foremen and lead men were attempt- [392] ing to get certain of the employees at Consolidated to sign a slip of paper that they would work on Sunday, waiving double time.

Q. What was your participation in this?

A. I was told about this, coming into the office, and upon learning Mr. Chudleigh was not there, and that Brother Felton was not there, I called up the plant, contacted a committeeman, asking what the story was, and after an investigation by him, learned the thing was actually going on.

Immediately following that I called Mr. Waterbury who was and still is, I believe, personnel director, and Mr. Waterbury was rather surprised and said he would immediately contact Mr. Laddon, or Major Fleet, if possible, and would advise me as soon as he could.

Approximately an hour later I received a call from Major Fleet himself. The Major wanted to talk to Mr. Chudleigh and when I told him Mr. Chudleigh was out of town, he asked me what we were prepared to do in relation to working on Sunday.

(Testimony of Harvey C. Brown.)

I told him we were prepared to work. He said: "You are prepared to work for time and a half?"

I said, "No, I hadn't heard anything about that."

He said, "Well, we certainly know that the President of the United States had requested that the plants operate 24 hours a day and 7 days a week, and that meant they would [393] have to be manned, and the men should do likewise, work 7 days a week and 24 hours a day. And that the company was not in a position to pay double time on Sunday because they couldn't receive payment in return from the Navy, on the contracts they were working." [394]

Q. What contracts were they?

A. I can't state specifically what.

Q. Well, I mean——

A. For the manufacture of the planes—the contracts that they were working on for the manufacture of planes.

I attempted to point out to the Major that we were in no position as individuals, or as a group, unless elected by the membership to arbitrarily do away with any of the provisions of our agreement.

The agreement definitely called for double time until such time as we were able to sit down in representation from both the company and the union, we would have to expect double time pay.

He reiterated that the company couldn't pay it. Made several statements about a seeming lack of loyalty on the part of the union in not having foreseen the circumstances and making provisions to do away with double time. And in closing he stated that

(Testimony of Harvey C. Brown.)

the company was not in a position to pay double time and that if the union felt that they were not willing to work for less than double time, or time and a half, he would be forced to close down the company and not operate, and that is what he would do on Sunday.

In other words, he assured me that the company would not operate the plant on the next day.

Trial Examiner Hektoen: Will you read the answer? [395]

(Answer read)

The Witness: I pointed out just prior to his final statement, and I believe the thing that caused him to make it, that I had in my possession a memorandum from the Navy Department to all contractors and sub-contractors of war industries, that in the event there should be increased costs on contracts, if the contractor or sub-contractor would make the proper application and submit evidence that their case would be considered and that there could be a reimbursement for the excess costs.

Q. (By Mr. Harrington) Did you have any conversation with any other person representing—

Mr. Riggs: I move to strike that statement out unless such communication is produced.

Trial Examiner Hektoen: Did you tell Major Fleet that?

The Witness: Yes, that is right.

Trial Examiner Hektoen: It may stand.

Q. (By Mr. Harrington) Did you have a conversation with any other official of the company that day?

(Testimony of Harvey C. Brown.)

A. Very shortly after ending the conversation with Major Fleet I was called on the phone by an Army or Navy representative in the plant, who seemed to have, from his conversation, a great deal of authority.

Trial Examiner Hekton: I think we ought to have his name, Mr. Harrington. [396]

Q. (By Mr. Harrington) Do you know who that person was?

A. I would know the person if I could make an investigation and find out who the representative was. I can't tell you the name.

Mr. Riggs: I don't like to make technical objections in a hearing like this, but it seems to me that the witness should be admonished not to draw conclusions but simply state the facts.

Trial Examiner Hektoen: We are trying to find out—I am trying to find out the name of this man.

Mr. Riggs: He said he seemed to have a good deal of authority. I don't know how he can tell that by talking over the telephone.

Trial Examiner Hektoen: That is exactly my point. I agree with you.

Q. (By Mr. Harrington) If you can't identify the person I shall not pursue that further.

Did you have any talk with anybody else representing the company whom you can identify?

A. That is right?

Q. After that conversation was ended did you talk with somebody else? A. Yes, sir.

(Testimony of Harvey C. Brown.)

Mr. Laddon called me on the phone——

Trial Examiner Hektoen: Is this still on Saturday, the [397] 13th?

The Witness: That is correct, the Saturday preceding.

Mr. Laddon called me on the phone and was considerably rude and upset.

Q. (By Mr. Harrington) Well, one thing, can you tell what he said?

A. In his conversation he stated that he thought we were unpatriotic; that I was being very unAmerican in my attitude.

I attempted to explain that I was just hired by the union to do a job which certainly didn't include representing them in a matter like that.

I attempted to point out to him, as I had to Major Fleet, that we would have to negotiate any change in the contract and that at the present time the contract called for double time.

He stated that inasmuch as the President requested the plant to operate seven days a week, 24 hours a day, they intended to operate the next day. I pointed out to him that the company would be subject to charges if they did that; that we would not attempt to keep our men off the job but from information I had received from the plant already the company was guilty, through their foremen and other supervisory representatives, of breaking the labor law and that that would just add to it. [398]

Q. (By Mr. Harrington) Was there any further conversation at that time?

(Testimony of Harvey C. Brown.)

A. (No response.)

Q. What do you mean when you say "charges"?

A. We were going to prefer charges against the company for breaking the terms of our agreement.

Q. And who were the charges filed under? What do you mean by that?

A. The thing is we were in a position there, without having our——

Mr. Riggs: I object to that as immaterial and also cumulative.

Q. (By Mr. Harrington) Who were you going to file the charges with?

Mr. Riggs: I object to that. I think that is immaterial.

Trial Examiner Hektoen: Did you tell Laddon this?

The Witness: I told Laddon that there would have to be charges filed with the National Labor Relations Board.

Trial Examiner Hektoen: Is that what you said?

The Witness: That is right.

Trial Examiner Hektoen: All right, that answers everything.

Q. (By Mr. Harrington) And were charges filed?

A. Charges were—if you want me to go ahead beyond this [399] point, before I make another point?

Trial Examiner Hektoen: Simply answer that question.

Q. (By Mr. Harrington) Are you through with this conversation?

(Testimony of Harvey C. Brown.)

A. Absolutely not.

Trial Examiner Hektoen: Do you withdraw the question?

Mr. Harrington: Yes.

The Witness: Mr. Laddon stated that he didn't care whether we preferred charges or not; that in all probability the charges wouldn't stand up because of the President's desire that we operate seven days a week and 24 hours a day, and with that closed the conversation.

Immediately after that I got a hold of Brother Perry, who was the only full time man there——

Trial Examiner Hektoen: Now wait a minute, you had better take charge of this examination, Mr. Harrington.

Mr. Harrington: I have no further questions. I think it would be repetitious from now on.

Trial Examiner Hektoen: You may cross examine.

Cross Examination

Q. (By Mr. Riggs) Did the plant operate the next day? A. It did.

Q. And do you know how many men worked the next day? A. I wouldn't know that, no.

Q. All those that worked received double time, did they [400] not? A. I couldn't answer that.

Q. Were you here yesterday when Mr. Perry testified they did? A. No, I was not.

Q. Do you claim that they didn't receive double time? A. I make no claim.

Q. You don't know anything about it?

(Testimony of Harvey C. Brown.)

A. Not as to whether all of the men that worked on Sunday received double time.

Q. But the President's request or the country being in a state of war made no suggestion in your mind of any deviation from your agreement?

Mr. Harrington: I object to that.

Trial Examiner Hektoen: I will sustain that objection.

Mr. Riggs: Nothing more.

Trial Examiner Hektoen: That is all, thank you.

(Witness excused.)

Trial Examiner Hektoen: We will have a short recess.

(A short recess was had.)

Trial Examiner Hektoen: We will be in order, please.

Mr. Harrington: Mr. Roy Brown. [401]

ROY M. BROWN,

a witness called by and on behalf of the National Labor Relations Board, being first duly sworn, was examined and testified as follows:

Mr. Harrington: May we stipulate on the record, Mr. Riggs, that the union is a labor organization within the meaning of the Act?

Mr. Riggs: Of course.

Mr. Harrington: Thank you.

Trial Examiner Hektoen: It is already admitted in the answer, I believe.

(Testimony of Roy M. Brown.)

Direct Examination

Q. (By Mr. Harrington) Will you give your name and address to the reporter?

A. Roy M. Brown. Local address?

Q. Yes. A. St. James Hotel.

Q. Are you a member of the union?

A. Yes.

Q. Do you hold any official position in the union?

A. Grand lodge representative of the International Association of Machinists.

Q. And how long have you held that position?

A. Since November, 1939.

Q. What duties do you perform as international representa- [402] tive?

A. I handle all business pertaining to the affairs of any of our local lodges or the grand lodge that might be assigned to me by our international president or vice president.

Q. Did you participate in conferences on individual increases? A. Yes.

Q. Did you take any further—have any further participation besides these conferences?

A. In relation to individual increases?

Q. Yes.

Mr. Riggs: May I interrupt a minute? What do you mean, the conferences that were held with reference to the bulletin that was put out stating that there would be no individual increases?

Mr. Harrington: No. We have had testimony

(Testimony of Roy M. Brown.)

here that there were conferences held between company and union representatives with respect to that matter—with respect to the matter of individual increases and I didn't intend to go into those conferences again because it would be repetitious. I merely want to know if Mr. Brown had any participation in any way beyond any conferences.

Q. (By Mr. Harrington) Have you done anything with respect to those increases beyond conferring with the company? [403]

A. Yes. I discussed matters of the policy of the company in granting individual increases without consulting the union, with all the representatives of the Labor Relations Committee.

Q. Well, I think we have gone into those conferences. A. In relation to——

Q. Did you have any correspondence with them?

A. Yes. I wrote a letter to Mr. Persons some time early in May in relation to job classifications.

Q. I am talking about merit increases — individual increases. A. (No response.)

Q. To refresh your recollection did you have occasion to write to Mr. Wiseman with reference to this matter?

A. I probably did. I probably did over a period of time. I had to write several letters, numerous letters in relation to various subjects and it was my responsibility at that time to handle most of these subjects.

(Testimony of Roy M. Brown.)

Mr. Harrington: Will you mark this for identification?

(The document referred to was marked as Board's Exhibit No. 20 for identification.)

Q. (By Mr. Harrington) I will show you Board's Exhibit 20 for identification and ask you if you can identify that letter?

(Handing document to the witness.)

A. Yes, sir; this letter was written in relation to a [404] specific individual merit increase—an increase that they started to grant.

Trial Examiner Hektoen: That is a letter purporting to be from you to whom, Mr. Harrington?

Mr. Harrington: Mr. Wiseman, dated April 2, 1942.

Trial Examiner Hektoen: All right.

The Witness: This letter was written in regards to the increases that the company proposed and had notified certain inspectors that they were going to receive prior to the time that they had discussed these increases with the union in any way whatsoever.

Mr. Riggs: May I ask a question or two?

Mr. Harrington: Surely.

Mr. Riggs: This was with reference to the increases of some 285 men that had been granted in the inspection department?

The Witness: There were 252 in the Home Plant and 100 or so in the Parts Plant. Yes, that is true.

(Testimony of Roy M. Brown.)

Mr. Riggs: Were they all in the inspection department?

The Witness: I wouldn't say that every one was in the inspection department, but to the best of my knowledge they were.

Mr. Riggs: And this was after some conferences between yourself and Mr. Wisemenan or somebody else connected with the company, as to what should be done with reference to [405] those increases?

The Witness: That matter had been discussed with the labor relations committee.

Mr. Riggs: And I think somebody here on behalf of the union said that the company offered to retract them and that the union said that they didn't care to have them retracted—they didn't want that. Is that correct?

The Witness: Mr. Fleet. Dave Fleet stated that the company was wrong in their granting of increases and that they would stop the granting of such increases if it met with the approval of the union.

We took the position that we didn't care whether they put the increases through or stopped the increases, the damage had already been done—the violation had already occurred.

Trial Examiner Hektoen: We have had testimony on this matter before.

Mr. Harrington: Yes. I offer Board's Exhibit for identification 20 in evidence as Board's Exhibit 20.

(Testimony of Roy M. Brown.)

Trial Examiner Hektoen: Mr. Riggs?

Mr. Riggs: No objection.

Trial Examiner Hektoen: It may be admitted.

(The document heretofore marked for identification as Board's Exhibit 20 was received in evidence.)

BOARD'S EXHIBIT No. 20

April 2nd, 1942.

By Bonded Messenger

Mr. Herman R. Wiseman,

Labor Relations Director,

Consolidated Aircraft Corporation,

Lindberg Field,

San Diego, California.

Dear Sir:

Not wishing that any misunderstanding might exist in regards to the increases in pay that the company had decided to give to certain individual employees in various departments, presumably based upon individual merit; we wish to definitely state that if the company desires to put these increases into effect as they now stand, not having been discussed with the various committeemen of the departments involved as is provided for in our agreement, such decision and the responsibility connected therewith rests with the company.

The Union has not demanded that the Company not make these increases effective as of the date

(Testimony of Roy M. Brown.)

they had originally set; but we have merely pointed out to your Labor Relations Committee the fact that in our opinion the granting of such increases is a definite violation of our Agreement, as well as a violation of the National Labor Relations Act, constituting an Unfair Labor Practice within the meaning of the Act.

Therefore, may we again suggest that the Company use their own good judgment as to whether they make these wage increases effective or not, without the consent of the Union Committeeman, as originally intended by the Company.

With kindest and best personal regards, I remain,

Respectfully yours,

RMB/rb.

ROY M. BROWN,

Grand Lodge Representative,
I.A.ofM.

Q. By Mr. Harrington) Did you participate in conferences [406] between the company and the union with respect to changing from a two shift basis to a three shift basis? A. Yes.

Q. When were those conferences held?

A. In the latter part of February.

Q. And who was present?

A. Mr. Wiseman, Mr. Fleet, Mr. Bowers and on one occasion I believe Bud Waterbury was there.

Mr. Riggs: Mr. Harrington, is the change from a two shift operation to a three shift operation charged as a violation of the Act?

(Testimony of Roy M. Brown.)

Mr. Harrington: 8(5), yes. I believe it is paragraph 9 of the complaint. It is the 8(5) allegation.

Q. (By Mr. Harrington) What occurred——

Trial Examiner Hektoen: Who was there on behalf of the union?

The Witness: Myself, Mr. Phillips, Mr. Bruce, Mr. Perry and Mr. Wilkerson.

Q. (By Mr. Harrington) And what occurred?

A. We discussed the change-over from a two-shift operation to a three-shift operation.

I might say that the possibility of the company going on or off the two-shift operation to the three-shift setup had been discussed numerous times prior to the final meetings in relation to this matter. But the primary discussions, when [407] it was finally determined by the company that they would go on the three-shift work day, was dealing with the 8 cent differential and the six and a half hour work day.

Q. (By Mr. Harrington) What is the differential?

A. Your two night shifts, the employees on the two night shifts receive in excess of their daily base pay a differential of 8 cents per hour for night work.

The evening shift, or what we call the swing shift receives 8 cents per hour in addition to their regular base pay and work 8 hours.

It was understood and agreed during these meetings that the third shift would work six and a

(Testimony of Roy M. Brown.)

half hours, for which they would be paid eight hours pay plus 8 cents for eight hours, and at no time was there any indication through discussion by the company's representatives, that they were going to in any way change the method of working as set forth in the contract between the company and the union.

Q. What do you mean by that?

A. In other words, that they would abide by the provisions of the contract in relation to the work week.

Q. And then—has the company established a three-shift operation? A. They have.

Q. And what is the union's position with respect to that?

A. Just prior to the time they went on the three-shift [408] operation it is my understanding that a notice was posted stating how the third shift would work and what days.

In that notice was incorporated the sixth shift would work from 12:00 midnight Saturday to 7:00 A. M. Sunday morning and it would be paid for at the rate of time and a half instead of double time, which we contend is provided for in the contract, in that Sunday work, Sunday being the seventh consecutive day should be paid for at double time.

Q. Were any conferences held with the company about that after the third shift was put into operation?

A. Yes, it was discussed with the labor rela-

(Testimony of Roy M. Brown.)

tions committee, various members of the labor relations committee, and their position was that they interpreted the contract to read that way, and they were going to institute that method of operations period; that in so far as they were concerned that they would pay for that shift at the rate of time and a half.

Q. When was such conference held?

A. Between the time this notice was posted and the actual time of the institution of the shift, and meetings were held after the shift was actually worked.

Q. And who were present?

A. The labor relations committee of the company, the various business agents of the union that have been named here before, and the conciliator, Harry Malcolm was present at [409] the last meeting where this was discussed.

Q. Who stated that the company was going to put them into effect? Period? I believe that is your language.

A. I wrote a letter to Mr. Wiseman over the signature of our business agent, Mr. Bruce, setting forth the contention of the union and making a demand that this shift be paid for as provided for in the contract, at the rate of double time, in that our contract reads that the five-day work week shall consist of the work week—shall consist of five consecutive days, Monday through Friday; the sixth shift shall be paid for at time and a

(Testimony of Roy M. Brown.)

half and the seventh shift or seventh day at double time.

Mr. Harrington: Will you mark this, please.

(The document referred to was marked as Board's Exhibit No. 21 for identification.)

Q. (By Mr. Harrington) I show you a paper I have had marked as Board's Exhibit 21 for identification, and ask you if you have seen that letter before, Mr. Brown?

(Handing document to the witness.)

A. Yes. That is the letter that I dictated.

Q. It is a letter signed by James E. Bruce, coordinating business agent of the union, to Herman J. Wiseman, dated March 12, 1942. In the lower right hand corner there are the initials J. R. B.-R.B. What does that mean, Mr. Brown?

Mr. Riggs: Will you give me the date of that letter [410] again?

Mr. Harrington: March 12, 1942.

The Witness: This letter was signed by James E. Bruce and it was written by myself. This is my identification (indicating).

Q. (By Mr. Harrington) Pointing at the initials R.B.? A. Roy Brown.

Mr. Harrington: I offer Board's Exhibit 21 for identification in evidence as Board's Exhibit 21.

Trial Examiner Hektoen: Any objection, Mr. Riggs?

Mr. Riggs: No objection.

(Testimony of Roy M. Brown.)

Trial Examiner Hektoen: It may be received without objection.

(The document heretofore marked for identification as Board's Exhibit No. 21 was received in evidence.)

BOARD'S EXHIBIT No. 21

March 12th, 1942.

Mr. Herman J. Wiseman, Personnel Director,
Consolidated Aircraft Corporation,
Lindberg Field,
San Diego, California.

Dear Sir:

Pursuant to our recent conversations held in Conference Room number two of the Parts Plant covering the rearrangement of shifts in the plants of the Consolidated Aircraft Corporation; namely, a change from a two shift operation to a three shift operation; we wish to make ourselves clear on any work day extending into Sunday.

If the company operates any shift between the hours of 12 m. midnight (Saturday) to 12 m. midnight (Sunday), such work will have to be paid for at the double the straight time rate as prescribed for in Articles 4 and 5 of the Labor Relations Agreement now in full force and effect between the Consolidated Aircraft Corporation and our Association.

Therefore, we are herewith serving notice of

(Testimony of Roy M. Brown.)

our insistence that the above mentioned provisions of our Agreement; as well as all other provisions therein contained are lived up to to the letter.

Trusting that we may enjoy your full cooperation in this matter; and with kindest and best personal regards, I remain,

Respectfully yours,

[Seal]

JAMES E. BRUCE

James E. Bruce,

Coordinator, Business Agents,

JEB/rb.

I.A.ofM. Lodge No. 1125.

CC:D. O. Walsh, NLRB.

[Stamped]: Received Mar 13 1942 National Labor Relations Board Twenty-First Region Los Angeles.

Q. (By Mr. Harrington) Was any answer received from Wiseman?

A. Yes. Herman answered the letter, I believe, within two days after this letter was written.

Q. And what did he say in his answer?

A. In substance he stated, if my recollection is correct, that the company did not agree with the interpretation of the union and that they proposed to work the shift as per their interpretation, which was for time and a half.

Mr. Harrington: Will you mark this paper as Board's [411] Exhibit 22?

(Testimony of Roy M. Brown.)

(The document referred to was marked as Board's Exhibit No. 22 for identification.)

Q. (By Mr. Harrington) I show you a paper I have had marked as Board's Exhibit 22 and ask you if you can identify it (handing exhibit to the witness)?

A. This is a copy of the letter addressed to Mr. Bruce by Mr. Wiseman as labor relations director, under date of March 14th, setting forth their contentions in relation to that shift. [412]

Mr. Harrington: I offer Board's Exhibit 22 for identification in evidence as Board's Exhibit 22.

Trial Examiner Hektoen: Do you want a chance to compare this?

Mr. Harrington: I believe he has furnished me that.

Trial Examiner Hektoen: Is it all right?

Mr. Riggs: I think it must be.

Trial Examiner Hektoen: We will take it for granted it is an accurate transcript. Admitted without objection.

(The document heretofore marked for identification as Board's Exhibit No. 22 was received in evidence.)

(Testimony of Roy M. Brown.)

BOARD'S EXHIBIT No. 22

(Copy)

Consolidated Aircraft Corporation
Lindbergh Field, San Diego, Calif.

March 14, 1942

Mr. J. E. Bruce
Business Representative
Aeronautical Mechanics Lodge #1125
1054 Third Street
San Diego, California

Dear Mr. Bruce:

We have your letter of March 12, 1942, advising that the Union interprets Articles 4 and 5 of the Agreement as providing for double time pay for any hours worked "between the hours of 12 m. midnight (Saturday) to 12m. midnight (Sunday)". We are unable to read this interpretation into the Agreement; hence we are planning to pay the third shift employees the same weekly pay envelope for 39 hours work that they would receive for 48 hours work on the second shift.

We believe that the above policy meets the spirit and intent of the Agreement, and that all employees will consider this policy fair.

Very truly yours,

CONSOLIDATED AIRCRAFT
CORPORATION

H. R. WISEMAN

HRW:LF

Labor Relations Director

(Testimony of Roy M. Brown.)

Copy to:

Wm. R. Walsh, Director

Twenty-First Region

National Labor Relations Board

Los Angeles, Calif.

Q. (By Mr. Harrington) Was there any further conference held on that matter after receiving that letter?

A. No official conference.

Q. What do you mean by that?

A. Well, in other words, after this letter was received, we made preparations to file charges with the National Labor Relations Board against the company in relation to their arbitrary action of instituting a procedure or a work day which actually is a day contrary with the provisions of the contract, without ever talking it over with the union prior to the time they took that action.

From time to time in other conferences we would notify the company that action was contrary to law and contrary to [413] the contract existing between the two organizations.

Q. What would the company's response be?

A. We differ in opinion.

Q. Have you participated in this matter of job classifications and rates of pay? A. Yes.

Q. You participated in conferences on that, did you? A. Yes.

(Testimony of Roy M. Brown.)

Q. Did you take any further steps in the matter other than conferences with the company?

A. Yes.

Q. What steps did you take?

A. I addressed a communication to Mr. Frank Persons requesting that they appoint a committee to sit down with a like committee of the union for the purpose of working out mutually satisfactory job classifications and rates of pay that had been arrived at as a result of collective bargaining, and not by arbitrary action on the part of the company.

Mr. Harrington: Will you mark this as Board's next exhibit?

(The document referred to was marked as Board's Exhibit No. 23 for identification.)

Q. (By Mr. Harrington) I show you a paper I have had marked Board's Exhibit 23 for identification and ask you what that is. [414]

A. That's the letter I addressed to Mr. Persons under date of May 1, making the request so stated.

Q. Signed by you?

A. Signed by myself.

Mr. Harrington: I offer Board's Exhibit 23 for identification in evidence as Board's Exhibit 23.

Trial Examiner Hektoen: That may be admitted, I take it, Mr. Riggs, without objection, and the letter referred to therein, of March 25, 1942, is in evidence as Board's Exhibit 12.

(Testimony of Roy M. Brown.)

(Thereupon the document heretofore marked for identification as Board's Exhibit No. 23 was received in evidence.)

BOARD'S EXHIBIT No. 23

May 1, 1942

Mr. W. Frank Persons
Industrial Relations Director
Consolidated Aircraft Corporation
San Diego, California

Dear Mr. Persons:

I am enclosing herewith a copy of a letter addressed to Mr. Herman R. Wiseman, Labor Relations Director, under the date of March 25th, 1942. To the best of my knowledge I never received an answer from Mr. Wiseman in answer to the request set forth in this letter.

The subject matter is self-explanatory and pertains to the topics you and I recently discussed in your office. As agreed to at that time, I am requesting for and in behalf of Local Lodge #1125 that the Consolidated Aircraft Corporation appoint a committee to meet with a like committee from our organization for the purpose of arriving at a mutually satisfactory agreement and understanding relating to job classifications and rates of pay.

I am not at this time requesting that our agreement be reopened as provided for in Article #25 of the existing agreement between our respective

(Testimony of Roy M. Brown.)

organizations. I am sincerely hoping that such an arrangement or understanding can be mutually agreed to in the interests of our present harmonious relationships as this matter constitutes one of the charges now pending against the Consolidated Aircraft Corporation with the National Labor Relations Board. I would very much appreciate a statement of the Company's position in this matter.

With kindest and best personal regards, I remain,

Respectfully yours,

ROY M. BROWN,

Grand Lodge Representative,
I. A. of M.

RMB:mg

Enc.

Q. (By Mr. Harrington): Have you received any reply to that letter?

A. No, I never received a reply to this particular communication.

Q. Has the union received any reply?

A. They have not.

Mr. Harrington: I have no further questions.

Cross Examination

By Mr. Riggs:

Q. Have you been continuously in San Diego since November of 1939?

A. I haven't been continuously in San Diego

(Testimony of Roy M. Brown.)

since November, 1939. I came to San Diego December 1, 1941.

Q. Since December 1, 1941 you have been here continuously [415] except when a trip takes you out of town, haven't you?

A. That is correct.

Q. During that time you have been familiar with the relations between the company and the union?

A. In the main, yes.

Q. Was there anybody more familiar with them than you are?

A. No, I would say that I am as familiar with the relationship as any one individual.

Q. You knew all of our people connected with the company personally, didn't you, who had charge of labor matters?

A. The people I dealt with, yes, in charge of labor relations.

Q. I mean David D. Fleet?

A. That's right.

Q. And Herman Wiseman?

A. That's right.

Q. Mr. Waterbury? A. That's right.

Q. Since Mr. Persons has been there you knew him? A. That's right.

Q. And Mr. Bowers?

A. That's right.

Q. And your relations have been friendly and harmonious, have they not?

A. We keep relations that way even though

(Testimony of Roy M. Brown.)

there is a [416] difference of opinion at various times.

Q. You found you can differ with respect to your opinions and still keep on friendly terms?

A. We can differ without becoming disagreeable.

Q. I want to get down to the point as to how many of these matters that are matters of complaint, Mr. Brown, that had been cleared up due to relations between yourself and the company. First, I would like to take up this letter of yours, April 2, with reference to interim increases in pay. There was some conferences about that between you and some people from the union, and Mr. Fleet and Mr. Bowers or Mr. Wiseman, were there not?

A. That is correct.

Q. And did Mr. Fleet explain to you that practically all these increases had taken place in one department, or the inspection department?

A. The particular increases that were the subject matter of discussions at that particular moment were confined to the inspection departments.

Q. And did Mr. Fleet say that the company had been wrong in not having the foremen of the inspection department not consult the committeemen?

A. Mr. Fleet stated the company was wrong in granting these increases.

Q. Did he say anything as to whether the foreman in the [417] inspection department had been fully acquainted with the procedure laid down or not?

(Testimony of Roy M. Brown.)

A. Yes. The foremen in the inspection departments as well as other departments had been acquainted with the procedure that was to be followed.

Q. Didn't he say with reference to the inspection department, or the foremen, they had made a slip-up somewhere with reference to those particular interim increases?

A. No, not to the best of my knowledge.

Q. Did he offer to have the increases renegotiated or rescinded?

A. He offered to stop the effective date of these increases and to have them negotiated as per our agreement between the union committeemen and the foremen or the supervisors in charge of those people.

Q. What was your reply to that, as contained in this Exhibit 20, in substance, saying you didn't want to go into that?

A. We stated to the Labor Relations Committee that what they did in relation to putting the increases into effect or not putting them into effect was inconsequential to the union. That the violation had already occurred and they could do as they pleased.

Mind you, at that time we hadn't arrived at the understanding that we now have in relation to the orderly procedure [418] setting forth how these particular matters will be handled in the future.

Q. You are referring to the bulletin that was put out later by Mr. Leigh which contained, had

(Testimony of Roy M. Brown.)

attached thereto, the slip I think it is in exhibit here, to be signed by the foremen and committeemen?

A. It was a memorandum put out, I believe, around the 9th of April.

Q. What I want to get at, Mr. Brown, is, so far as the union is concerned, although you weren't satisfied with what had been done with reference to these men in the inspection department, that thereafter any grievance you had with reference to the method of interim increases was cured by the company's action after consultation with the union?

A. We arrived at a satisfactory solution to handle all of those particular cases and also the cases in the future, but only after the damage had been done by the action of the company in that particular case.

Q. Did you consider that the company did the best it could to repair the damage?

A. Well, let's say that the company sat down and bargained with the union at a date after this offense had been committed, and we had arrived at a satisfactory conclusion.

Q. When you had these conferences with the change from the two shift to the three shift, I want to go into that a [419] little more in detail. Two shifts had been operating approximately 10 hours a day. Is that correct?

A. In some department, in the majority of departments.

(Testimony of Roy M. Brown.)

Q. And who were the conferees on behalf of the company?

A. That varied, but the conferees, one or more, were the same all the time. That was, Mr. Fleet, Mr. Wiseman, Mr. Bowers, and from time to time on very rare occasions, Waterbury would come into a meeting.

Q. You stated this matter of changing from two to three shifts had been something that was discussed on or off for some time before it happened. Can you give me the length of time?

A. Well, that was discussed, Mr. Riggs, I would say from the latter part of January up until the time it was put into effect.

Trial Examiner Hektoen: When was it put into effect?

The Witness: Some time early in March, if I am not mistaken.

Q. (By Mr. Riggs): At these conferences that took place, did the company state its position as to the reasons for the change from two to three shifts?

A. The company never did tell us why they capitulated and went on the three-shift basis. They maintained right up until the time it was decided by the executive heads of the company, that they would leave two-shift operation for the [420] three, that they didn't propose to change their method of operation, that they proposed to operate on two shifts. It came very suddenly.

Q. Who do you mean that they capitulated to?

(Testimony of Roy M. Brown.)

Did you want the operation on three shifts?

A. We proposed the operation on three shifts.

Q. A change from two-shift to three-shift operation was satisfactory to the union?

A. Yes. Yes. We felt that production would be enhanced by three-shift operation instead of working the men such long hours.

Q. And the women also. Isn't that so?

A. The women at that time were not so much of a factor.

Q. There were not as many, proportionately, employed then as there are now? A. No.

Q. The women, as I recall it, on a 10-hour shift had been compelled by law to stop at the end of eight hours, had they not?

A. That wasn't a matter of discussion in relation to three-shift operation.

Q. But in any event, the change from two-shift to three-shift operation was satisfactory to the union?

A. The change in itself was satisfactory to the union, but not certain features. [421]

Q. Wait a minute. And requested by the union?

A. Yes. Yes.

Q. But your only grievance, then, with reference to the change from the two to the three shift is in relation to what they call the graveyard shift working on Sunday?

A. That is the shift from 12:00 midnight Saturday to 7:00 a. m. Sunday morning.

(Testimony of Roy M. Brown.)

Q. Aren't you mistaken in that? Didn't they go to work 11:00 o'clock Saturday night?

A. No, no. They went to work at 12:00 midnight. That will be borne out by the discussions that were held in the presence of Mr. Malcolm at the Grant Hotel, when your full committee was present.

Q. The men and women on the second shift got 8 cents an hour differential over those on the first shift, did they not?

A. Yes, they received an 8 cent bonus, or differential in pay.

Q. And the men on the graveyard shift, whether it worked from 11:00 or from 12:00 at night, they received an additional 8 cents for the second shift?

A. The men on the graveyard shift received 8 cents above their base pay, which would be their day rate. They don't receive 8 cents in addition to the second shift which would make 16 cents. They only receive 8 cents. [422]

Q. They only get the same 8 cent differential that the second shift gets?

A. That's right.

Q. But did not the men on the graveyard shift work only 6½ hours and get 8 hours overtime for the Saturday operation?

A. Will you read that question, please?

(The question was read.)

Q. (By Mr. Riggs): Let me rephrase that again. What I mean is: The men on the graveyard shift from 12:00 until 7:00, as you say, every

(Testimony of Roy M. Brown.)

morning, received not only the 8 cent differential over their base pay above the day work, but in addition to that they got paid 8 hours work for 6½ hours they perform.

A. Yes. The men and women working from 12:00 midnight to 7:00 o'clock in the morning received 8 hours pay for 6½ hours work plus 8 cents bonus for 8 hours.

Q. When it came to working from 12:00 Saturday night to 7:00 Sunday morning, as you say, and as I think it was from 11:00 to 6:30, we will clear that up later on, that also got the 8 cent bonus, they got 8 hours pay for 6½ hours work and they got time and a half for the work on Sunday?

A. Instead of double time, yes.

Q. And the union wasn't satisfied with that, but wanted them to get double pay on Sunday? [423]

A. In accordance with our agreement.

Q. Your interpretation of the contract was that was working on the 7th day and the interpretation of the company was that was working on the 6th day. Isn't that right?

A. Provisions 4 and 5 provided for our work week, that is, Provision, Article 4; Article 5 provides for overtime, double time for the seventh consecutive day, and the work week is Monday through Friday.

Q. And the company takes the position that starting on Saturday night is a six-day week and not a seven?

A. The company, since they instituted the sev-

(Testimony of Roy M. Brown.)

enth day, before even they instituted the third shift operation, moved the day ahead, took a page out of the president's book, and moved the day ahead and started at 12:00 midnight Monday as their first shift, and that way they figured they would eliminate the double time for Sunday and get by with time and a half.

Q. Has that issue ever been submitted to arbitration?

A. Not to arbitration. It was discussed in conciliation.

Q. And the company maintained its position, and you maintained the position of the union?

A. The company maintained its position in the face of testimony and advice from Harry Malcolm that they were wrong.

Mr. Riggs: I suggest that be stricken.

Mr. Harrington: I suggest it remain. He answered the [424] question.

Trial Examiner Hektoen: Read the answer.

(The answer was read.)

Trial Examiner Hektoen: It may be stricken.

Mr. Riggs: I suggest that that is not responsive.

Trial Examiner Hektoen: It may be stricken.

Q. (By Mr. Riggs): At any rate, Mr. Brown, the issue has never been settled between the union and the company, has it? To date?

A. That's why we are here.

Q. That is the only grievance you have with reference to the operation of two to three shifts?

(Testimony of Roy M. Brown.)

A. I believe that's the only grievance we have in relation to that, Mr. Riggs.

Q. Do you remember the Williamson case?

A. Quite well.

Q. After Mr. Williamson was discharged, did you have some conversations with Mr. Frank Persons with relation to his reinstatement?

A. Yes.

Q. Were they with Mr. Persons alone and yourself alone, or were there other people present?

A. Most of the discussions were between Mr. Persons and myself. There was a time when there was another person present. [425]

Q. But you have heard testimony here that there were a great number of conferences between representatives of the union and representatives of the company in which practically an impasse was reached? A. I attended those meetings.

Q. Well, after those meetings reached practically an impasse you took up some meetings with Mr. Persons, did you not?

A. That is correct.

Q. And as a result of those meetings Mr. Williamson was rehired, was he not?

A. Mr. Williamson was reinstated.

Q. Well, I think he phrased it that he was rehired.

A. Well, he was rehired. He went through the process of rehiring, but, unless I have slipped some place, his personnel record should show that he was reinstated with full job status and seniority.

(Testimony of Roy M. Brown.)

Q. Well, I show you what purports to be a letter written by you dated April 30, 1942, to the National Labor Relations Board in Los Angeles, and ask you if you wrote that letter?

(Handing paper to the witness.)

A. Yes, sir; I wrote that letter.

Mr. Riggs: I offer this in evidence.

Mr. Harrington: May we see it?

(Paper handed to Mr. Harrington.) [426]

Mr. Riggs: Will you mark this, please?

(The document referred to was marked as Respondent's Exhibit No. 5 for identification.)

Mr. Riggs: I offer it in evidence.

Trial Examiner Hektoen: Any objection?

Mr. Harrington: No objection.

Trial Examiner Hektoen: It may be admitted without objection.

(The document heretofore marked for identification as Respondent's Exhibit No. 5, was received in evidence.)

(Testimony of Roy M. Brown.)

RESPONDENT'S EXHIBIT No. 5

(Copy)

Consolidated Aircraft Corporation
Lindbergh Field, San Diego, Calif.
April 30, 1942

National Labor Relations Board
U. S. Post Office and Courthouse Bldg.
Los Angeles, California

Attention: Mr. Roger McGuire, Field
Representative

This letter will serve as your official notice that in the matter of the charges now pending against the Consolidated Aircraft Corporation, which charges were filed by myself in behalf of Aeronautical Mechanics Lodge #1125, and relating specifically to Mr. Oliver H. Williamson have been settled to the satisfaction of our organization. Therefore, we wish to withdraw the particular charges against the Consolidated Aircraft Corporation.

With kindest and best regards, and thanking you for your cooperation in this matter, I am

Very truly yours,

(Signed) ROY M. BROWN (mg)

Roy M. Brown,

Grand Lodge Representative,

I. A. of M.

RMG:mg

cc: Mr. W. Frank Persons,
Industrial Relations Director
Consolidated Aircraft Corporation

(Testimony of Roy M. Brown.)

Q. (By Mr. Riggs): In these discussions with Mr. Persons about the Williamson case, did you have anything to say about the merits of the case?

A. Yes, I did, very definitely so.

Q. Did you say anything about everybody on all sides losing their tempers?

A. No, no, no.

Q. Did you say anything like that?

A. No.

Q. Did you say anything about thinking it was a tempest in a teapot?

A. No. I think that is a New England phrase.

Q. Well, what did you say about—what I want to get at, Mr. Brown, is, wasn't there a good deal of discussion between you and Mr. Persons about the whole matter, the whole thing [427] being rather trivial and should never have happened on all sides?

A. No. I know what you are trying to get at, but I can't answer your question the way you are putting it. You will have to beat around a little bit.

Q. All right. Tell me what was said.

Mr. Ryan: Mr. Examiner, I don't think it is very important. It is calling for opinion evidence and certainly the issues in this case do not revolve around a question of who thinks this is important or who doesn't think it is important. The only thing we are interested in is the facts—what was said and what was done.

Mr. Riggs: All right, I will withdraw the question and rest upon Mr. Brown's letter, Respondent's

(Testimony of Roy M. Brown.)

Exhibit 5, that the Williamson matter was settled satisfactorily to the union.

Q. (By Mr. Riggs): Have you had various talks with Mr. Persons with reference to this job classification matter?

A. From time to time, yes.

Q. And they are still continuing?

A. No, no.

Q. In the course of those conferences did Mr. Persons say anything about the job classifications having been undertaken at the request of the United States Government by Mr. Sidney Hillman? [428]

A. No, no.

Q. Didn't he tell you that the job classification was a matter that was up now for discussion in Washington? A. (No response)

Q. You know that, don't you; I mean, you have just been in Washington, haven't you?

A. That is right.

Q. Didn't you go there upon this very point of job classification by the aircraft companies in Southern California?

A. We went there on stabilization of wages.

Q. Well, that necessitates to some extent job classification, does it not? A. Naturally.

Q. Well, I mean isn't it the idea of the stabilization of wages that the aircraft companies in Southern California shall have some way akin standards of classifications so wages in one plant will not be out of line with wages in another plant and prevent migratory workers from changing jobs?

(Testimony of Roy M. Brown.)

A. That was the original proposal of the union a year ago and also this year it was proposed by the union.

Q. Proposed to whom?

A. To the Government by Dale Read, our representative at Lockheed and Vega. He took the entire breakdown of job classification and rates of pay back to Washington prior to [429] the time of the calling of the stabilization conference in Hollywood, and sold it to the Government.

Q. And was the conference in Hollywood called for the purpose of considering the wage stabilization plan among the southern aircraft—Southern California aircraft companies?

A. That is correct.

Q. And were representatives of all of the companies there? A. All but one.

Q. Was that Consolidated?

A. No; that was Fletcher.

Q. Well, were there representatives of the unions there? A. That is correct.

Q. Were there representatives of C.I.O. representing the union at Vultee?

A. Representatives of the C.I.O. came here from the East. There was only one local representative.

Q. Who represented the 1125 Lodge?

A. Mr. Wilkerson, Mr. Pyeatt and Mr. Brown.

Q. Didn't it come up at that meeting that there wasn't any one company of the aircraft companies on the Pacific Coast that could negotiate job classi-

(Testimony of Roy M. Brown.)

fications with its own particular union without disrupting the Government plan until stabilization had been effected?

A. No, it did not. I would like to point out also that [430] these requests were made a long time prior to the time stabilization was in the offing and Government was participating.

Q. Well, the conference—did the conference at Hollywood get anywhere?

A. No, I don't believe we got very far. There was too much jurisdictional disputes between the Governmental agencies.

Q. What Governmental agencies were involved?

A. Most the alphabetical agencies—OPA, WPB, War Manpower Commission, War Labor Board.

Q. Then when was the matter adjourned to Washington?

A. Adjourned to Washington to reconvene on or about the 22nd of July, with a definite date set for the 27th.

Q. What happened then?

A. We cooled our heels back there for about five weeks and fought the windmill.

Q. Fought what? A. Windmill.

Q. Who do you mean by "we"?

A. The stabilization committee of the A. F. of L. unions, or the Machinists' Union on the Pacific Coast.

Q. Who represented 1125?

A. Mr. Wilkerson, Mr. Brown and Mr. Pyeatt.

(Testimony of Roy M. Brown.)

Q. By Mr. Brown, do you mean yourself?

A. No; H. C. Brown.

Q. You were there also? [431] A. Yes.

Mr. Harrington: Mr. Examiner, I object to this. This is getting too far afield. Mr. Riggs is talking about something that happened within the last couple of weeks.

Trial Examiner Hektoen: Mr. Riggs is trying to show that under the circumstances there can't be anything done with reference to job classifications; is that correct, Mr. Riggs?

Mr. Riggs: That is correct.

Mr. Harrington: When? At the present time?

Mr. Riggs: At the present time.

Trial Examiner Hektoen: At any time, I take it is what you are trying to show and on that basis you may go ahead.

Q. (By Mr. Riggs) Was there anybody from Consolidated there? A. In Washington?

Q. Yes. A. No.

Q. Were there representatives of the other unions from the Pacific Coast present?

A. I didn't see them. Do you mean the I. of M. Unions, or C.I.O.?

Q. C.I.O. and others.

A. I didn't see any C.I.O. representatives there.

Q. Wasn't Mr. Beck there of Consolidated? [432]

A. If he was there he kept out of our vision.

Q. Well, has that conference yet been held?

A. It has not.

(Testimony of Roy M. Brown.)

Q. What was the status or what is the status at the present time?

A. I believe the President of the United States is the only one that could answer that question.

Q. It is a matter that the union have been pressing, is it not?

A. I believe we could say that the unions are very much interested for the simple reason that they have been left hanging up in the air.

Q. Well, now, is it in your opinion desirable from the standpoint of the union to have certain job classifications at Vultee, say, at one rate and the same job classifications at Consolidated, for instance, at either a higher or lower rate than those at Vultee?

A. Job stabilization or job classifications can never be stabilized entirely as a result of operations in one plant as against another because your method of operations are different. You can only arrive at a pattern.

Now, there was nothing—there isn't anything, to my knowledge that would preclude any company from negotiating job classifications for their own plant at the present time or any other time. [432-A]

Q. How about rates of pay attached to the various job classifications?

A. The only thing that has been more or less held in status quo is your rates of pay—not your interim rates but your top rates of pay.

Q. Well, is it your contention, Mr. Brown, that the union should be entitled to go ahead with the wage review boards with reference to the individual

(Testimony of Roy M. Brown.)

increases before the wage review board and at the same time fix with the company job classifications and rates of pay for the job classifications?

A. Absolutely, in view of the fact that the company, referring to Consolidated, has arbitrarily set up their own job classification and rate ranges and they have been applied and are now in operation and none of these have been arrived at as a result of collective bargaining between the union and the company.

Q. Well, hasn't it been made clear by Mr. Persons that whatever job classifications and rates of pay that have been affixed thereto have been used as a guide only in the wage review when the case of the individual man was before the wage review board?

A. He has not so stated. It has been definitely testified to by Mr. Beck, your wage administrator, that these rate ranges have been applied and are in operation and they are not being used only as guide. That is a matter of court [433] record held in your last arbitration proceedings with the janitors.

Q. Well, it is your contention then that the union is entitled to review the individual person and also to treat with reference to job classifications and the ranges of pay attached to the respective job classifications?

A. All of that is certainly within the purview of or the provinces of labor relations between the company and the union—collective bargaining.

(Testimony of Roy M. Brown.)

Q. Well, I am talking about this particular contract which, to my mind, you can't have your cake and eat it, too. I mean, it isn't your interpretation of the agreement—and this may be objected to, that the wage review board of the individual merit increases provided every six months by the company was to be the method by which the wage review of the union and non-union men in your jurisdiction were to be fixed?

A. Not by any stretch of the imagination.

Mr. Riggs: That is all.

Redirect Examination

Q. (By Mr. Harrington) What was your answer to Major Fleet when you stated that he said the company was wrong about the interim increases in pay and offered to stop the increases?

A. That wasn't Major Fleet; it was Dave Fleet.

[434]

Q. Whichever it was, Dave Fleet or Major Fleet, you stated that the damage was done. What did you mean by that?

A. The company had already broken, let us say, the company had broken the law or violated our contract in relation to the granting of any increases in pay or any changes of wage status.

These increases have been made known to the men who were to be the recipients of these increases and the committeeman was never consulted or never dealt with over these increases.

Q. What was the effect of that on the union?

(Testimony of Roy M. Brown.)

A. The immediate effect was, you might say, an absolute arrogance or disrespect of the union by the men who were being granted these increases, because they told them they would get them whether the union objected to it or not.

Mr. Riggs: Now, wait a minut—you mean—well, go ahead.

Q. (By Mr. Harrington) Go on, finish up, if you have an objection.

Mr. Riggs: No, go on, finish.

Q. (By Mr. Harrington) I was going to another subject. What was the union's objection to this third shift business? Specifically, what did the union object to in relation to putting on the third shift? We have had testimony of bonuses and eight hours pay for six hours, but just what was the union's [435] specific objection?

A. The company, without ever discussing with the union their controversial position in relation to what constitutes the sixth or seventh shift, put into effect their interpretation of the matter without ever consulting the union or dealing with the union over an interpretation of contract.

Q. These job classifications that you testified were set up unilaterally by the company—that is, not negotiated with the union when those job classifications were set up and put into effect?

A. Well, they were being applied in a minor manner when I came to San Diego in December, 1941.

Q. And when was this conference in Hollywood and this conference in Washington held?

(Testimony of Roy M. Brown.)

A. The wage stabilization conference was held, or was called by Paul Porter on July 6th.

Q. Of what year?

A. Pardon me—that is correct, yes.

Q. Of what year? A. 1942.

Q. And this Washington business, when did that occur that you testified about?

A. That was supposed to have convened in Washington on the 22nd of July, 1942.

Mr. Harrington: I have no further questions.

[436]

Recross Examination

Q. (By Mr. Riggs) You said just now that somebody told these men in the inspection department who got these interim raises, that they would get them whether or not the union wanted them to get them or not.

You don't know that of your own knowledge, do you? A. They didn't tell me that.

Q. I mean the men didn't tell you that, did they?

A. Yes, they did. You mean the men that were to receive these increases?

Q. Yes. A. Those men never told me.

Q. So you don't know that. You don't know that that statement was made to them by anyone representing the company, do you?

A. We can produce witnesses to substantiate the statement?

Q. They were told that they would get the increase whether the union wanted it or not?

A. Men that were supposed to be granted these

(Testimony of Roy M. Brown.)

increases, prior to the time that it had been discussed with the union, were told that they would get increases regardless of whether the union agreed to it or not.

Q. Now, doesn't the union want to get the names of the men who were up before the review board in advance so that the union men can contact them and suggest that they join the union? [437]

A. I believe that our union men are educated a little better than that. We know that we represent all of the people in this plant who are hourly paid and they represent those people to the best of their ability.

Q. Do you think, Mr. Brown, that in this wage review board, after hearing Mr. Shannon testify, that the union committeemen look after the non-union men exactly the same way they do after union men?

Mr. Harrington: I object to that. That is a matter of opinion. It is an opinion question.

Trial Examiner Hektoen: We are getting over into that collateral issue again.

Mr. Riggs: All right, I will withdraw the question.

Trial Examiner Hektoen: Anything more?

Mr. Riggs: That is all.

Mr. Harrington: I have no further questions.

Trial Examiner Hektoen: Mr. Brown, have you any idea when the notice to the effect that the third shift was to be paid so and so was posted in the plant?

(Testimony of Roy M. Brown.)

The Witness: It was approximately four or five days prior to the time that the third shift operations went into effect.

Trial Examiner Hektoen: May we have a copy of that notice?

Mr. Riggs: Yes. [438]

Trial Examiner Hektoen: If one exists I would like to have it in the record.

Mr. Riggs: Was it a bulletin posted on the board, Mr. Brown, that you referred to?

The Witness: I presume it was.

Trial Examiner Hektoen: Will you look into that, Mr. Riggs?

Mr. Riggs: Yes.

Trial Examiner Hektoen: And immediately thereafter on the 12th you wrote to Mr. Wiseman protesting about it?

The Witness: That is right.

Trial Examiner Hektoen: And the first you knew about the scheme was when the bulletin was posted; is that correct?

The Witness: Men from the shop began to call into the union—began to call in the union committee man and such as that.

Trial Examiner Hektoen: And after you received Wiseman's reply of March 14th, did you thereafter get in touch with the respondent about it in any way?

The Witness: Not officially. In other words—

[439]

(Testimony of Roy M. Brown.)

Trial Examiner Hektoen: That's what I didn't understand.

The Witness: We had meetings almost continuously between our business agents. In other words, our labor relations committee and the labor relations committee of the company, and when we were in those meetings ordinarily during the course of a meeting we would point out that the union's position was still that the company was wrong and in violation of the law in instituting the present third shift method of operation in regard to Sundays.

Q. (By Trial Examiner Hektoen) What was your position? That they were wrong in their interpretation of the contract?

A. They were wrong in instituting that shift without first having discussed it with the union and having a clarification, and they were wrong in interpreting the contract one way, and saying: Well, this is the way we interpret it and that's the way it is going to be done.

Q. Did they reiterate that statement in the subsequent, what you call informal or unofficial meetings?

A. Yes, their position was very firm. They stated their position was that was the sixth shift and not the seventh.

Q. And the matter had not been discussed. How was it left when you had ironed out some, at least, of the third shift details before the original bulletin about this matter was posted? [440]

A. The question was never mentioned.

(Testimony of Roy M. Brown.)

Q. It was never mentioned?

A. During those discussions when we made the arrangements in regard to the six and one-half hours for eight hours' pay, plus the 8 cent bonus, it was never mentioned, what was in the minds of the company, to institute a change in the work week, when the work day would start.

Q. I see. Now, somebody, several people have testified that after the December 13 episode, the union said it was going to file charges. Did it file charges?

A. It did.

Q. That has nothing to do with this case, I take it, or are those charges in connection with this case?

A. I withdraw those charges.

Q. Those are withdrawn. After March 14 and this third shift business, there was also similar statements made.

A. What was the date?

Q. March 14, I think.

A. Oh, yes, in relation to the third shift.

Q. Yes. Were charges filed about that?

A. They were included. In other words, it was made an amended charge in the present charge.

Q. And that is in this case?

A. That is right.

Q. I see. Those are all the questions I have. [441]

Q. (By Mr. Riggs) At the conference, Mr. Brown, before the bulletin was posted, about the change from two to three shift operation, it was discussed at that time the third shift was going to start either at 11:00 or 12:00 o'clock at night, and

(Testimony of Roy M. Brown.)

was going to start work Monday night and go through to Saturday, wasn't it? A. No.

Q. It wasn't discussed that they were to have eight hours' pay for six and one-half hours' work?

A. Plus 8 cents.

Q. Plus 8 cents bonus above their base pay?

A. The shift was to start 12:00 midnight.

Q. And it wasn't stated whether it would start Sunday at midnight or Monday night at midnight. Is that your point?

A. The terms of the contract were to be met, which provides for a work week of five days beginning Monday through Friday.

Q. Wait a minute. Was it discussed as to whether the first shift would begin Sunday night at midnight or Monday night at midnight?

A. It was not.

Q. Did the question of payment for what work was to be done on Sunday come up, as to whether it was to be time and a half for overtime or double time?

A. No, the company indicated their willingness to abide by the provisions of the contract in relation to shifts and [442] overtime.

Q. I don't know exactly what you mean by that. Did the question come up, then, as to whether this shift was to begin Saturday night or Monday night?

A. I have tried to state, Mr. Riggs, that the company indicated their willingness to operate this shift in conformity with the contract, which provides for the work week of Monday through Friday.

(Testimony of Roy M. Brown.)

After that, the method the provisions set up in the contract would be complied with.

Q. Who said that?

A. Representatives of the company's labor relations committee, namely: Mr. Bowers, Mr. Fleet, and Mr. Wiseman.

Q. How long did these conferences precede the posting of the bulletin

A. I couldn't definitely state the exact number of days. It was just shortly preceding the institution of the shift, because it came up rather rapidly, insofar as the company's attitude was concerned. They made the change all of a sudden.

Q. Isn't it a fact your entire grievance with reference to this shift on Sunday arises from a difference of interpretation about the terms of the contract?

A. Not entirely; not entirely. Our grievance is that the company did not consult or discuss with the union prior to the changing of what constitutes a work day, what their [443] interpretation was. They merely decided what they were going to do and applied it, put it into effect.

Q. They said they were going to abide by the terms of the agreement and since that time they have said to you that they thought the agreement was perfectly clear and that there was no need for discussion about it, haven't they?

A. Not in those words, no. The fact of the matter is, the labor relations committee of the company was divided amongst themselves. Glenn Bowers con-

(Testimony of Roy M. Brown.)

ceded that the union was right in our contention. Somebody knocked Glenn's ears down. I don't know who, but he didn't get very far.

Trial Examiner Hektoen: Anything else, Mr. Harrington?

Mr. Harrington: No, I have nothing further.

Trial Examiner Hektoen: That is all. Thank you, Mr. Brown.

(Witness excused.)

Trial Examiner Hektoen: It is stipulated by and between all counsel that line 8 on page 285 of the record be amended to read as follows:

"Q. Thereafter, when you saw Stark and Newman, Newman got rather mad?"

We are in adjournment until 1:30.

(Whereupon, at 12:30 o'clock p.m., a recess was taken until 1:30 o'clock p.m. of the same date.) [444]

After Recess

(The hearing was reconvened at 1:30 o'clock p.m.)

Trial Examiner Hektoen: The hearing will come to order.

Mr. Riggs: At the close of the hearing yesterday I was requested to produce copies of any petitions which were circulated among the employees on or about December 13, 1941, which is Board's Exhibit No. 15, signed by Mr. Laddon with reference to working on Sunday at time and a half.

I produce now two volumes of petitions, one being

petitions signed by the day shift employees and the other one petitions signed by the night shift employees who desired to work on Sunday.

Mr. Harrington: My idea was we might introduce one petition as representative of the rest of them.

Trial Examiner Hektoen: Why not read the contents or the writing at the top of the petition into the record?

Mr. Riggs: In order to avoid putting in a multiplicity of petitions in evidence, I will put on the record the heading of one of them.

They read as follows:

"Consolidated Aircraft Corporation, San Diego, California.

"In view of the present war situation we, the undersigned, offer to work this Sunday at time and a half."

Then the names of the employees follow in pencil who signed the petition. [445]

Trial Examiner Hektoen: Very good.

Mr. Riggs: I would like to have a concession from Mr. Harrington, to avoid the necessity of proof on the subject, that all of the employees who did work on that particular Sunday, the 14th of December 1941, received pay at double time.

Mr. Harrington: It is so stipulated.

Trial Examiner Hektoen: Very good.

Mr. Harrington: I have also asked Mr. Riggs and he has kindly consented to furnish us with Mr.

Arthur J. Fisher's service record at some subsequent stage in these proceedings.

Mr. Riggs: Mr. Burr has already telephoned for that to the personnel office.

Mr. Harrington: Thank you very much. The Board rests.

Mr. Riggs: Before making any motions, I want to reserve my right on the record, which I have already reserved, to continue briefly, probably, the cross examination of Mr. Blake, Mr. Condon and I would also like to add Mr. Barnes, Martin and Perry.

Trial Examiner Hektoen: I have no objection.

Mr. Harrington: I have no objection. I believe we agreed to that but I don't know whether or not the gentlemen are available now, Mr. Riggs. I didn't know you were going to call them at this time.

Mr. Riggs: I am not going to call them now. I am not [446] prepared to continue their cross examination any further than I have because of the fact that the people who are in possession of the facts with reference to their testimony, are not at present available and in San Diego.

Mr. Harrington: I thought you meant that you wanted them immediately.

Mr. Riggs: No, I don't want them right now.

Now, Mr. Examiner, before proceeding with my case, I would like to make a motion to dismiss the charges contained in paragraph 4 of the complaint upon the ground that there has been no proof adduced that the company at the present time is discriminating against union committeemen; hinder-

ing them or preventing them from performing their duties as committeemen; inducing men to resign—inducing employees to resign as a protest against discrimination against union committeemen; threatening the discharge of employees and the cancellation of departmental transfers granted employees if grievances were presented on their behalf; that the company is offering rewards to employees to induce them to give up their union membership and union activities; that it is advising employees that the union will not bargain for them and instructing employees not to remain members of the union, and advising employees that the union would be of no benefit to them.

Trial Examiner Hektoen: You are quoting the paragraph [447] that alleges the respondent is not at the present time doing that. The complaint, however, alleges it has done these things in the past. Is that included in your motion?

Mr. Riggs: I was going to make that the subject of a separate motion.

Trial Examiner Hektoen: The motion is denied.

Mr. Riggs: I make the same motion with reference to the conduct of the company in the past, during the period from February 1940 and from May 1941 up to date.

Trial Examiner Hektoen: Same ruling.

Mr. Riggs: I move to dismiss the charges contained in paragraph 10 of the complaint upon the ground that there was no adequate proof that the company at the present time is refusing and failing

to bargain collectively in good faith with respect to rates of pay, wages, hours of employment and conditions of employment with the union.

Trial Examiner Hektoen: Same ruling.

Mr. Riggs: As set forth in paragraph 10.

Trial Examiner Hektoen: Same ruling.

Mr. Riggs: I renew the motion with reference to the period between June 12th, the date of the union, and the present time.

Trial Examiner Hektoen: Same ruling.

Mr. Riggs: I move to dismiss the charges contained in paragraph 6 of the complaint with reference to the discharge [448] of Oliver H. Williamson, upon the ground that the proofs show that the matter was adjusted between the company and the union satisfactorily to the union.

Trial Examiner Hektoen: Motion denied.

Mr. Riggs: I move to dismiss the complaint generally upon the ground that the proof fails to sustain the allegations of the complaint.

Trial Examiner Hektoen: Denied at this time.

Mr. Riggs: I will endeavor to arrange my proofs as orderly as I can, but I may have to call some witnesses out of order.

First, I will try to take up, Mr. Harrington, the Williamson case.

Mr. Ryan: Mr. Riggs, before we go any further with respect to that letter which you introduced in evidence this morning, a letter from Mr. Brown, I believe to Mr. Walsh, requesting that Mr. Williamson's case be dropped, or words to that effect, we

now have a copy of a letter written to Mr. Brown in reply to that letter, which was written by Mr. Roger Maquire, Field Examiner of the Los Angeles office, who was answering for Mr. Walsh, and I believe to complete the record in that regard, it would be well to have it in evidence.

We do not have the original but we do have a copy of it.

Mr. Riggs: Are you offering it in evidence?

Mr. Ryan: Yes. [449]

Mr. Harrington: Will you mark this?

(The document referred to was marked as Board's Exhibit No. 24 for identification.)

Mr. Harrington: This serves to complete the correspondence and I offer it in evidence.

Mr. Riggs: I object to it as immaterial and irrelevant. My point is that the union was satisfied with the fact that the National Labor Relations Board did not desire the charges to be withdrawn. It is immaterial and irrelevant because that agreement with the union was reached by negotiations.

Trial Examiner Hektoen: Let this be off the record.

(Discussion off the record.)

Trial Examiner Hektoen: On the record.

The objection is overruled and Board's Exhibit 24 may be admitted.

(The document referred to, heretofore marked as Board's Exhibit No. 24 for identification was received in evidence.)

BOARD'S EXHIBIT No. 24

May 1, 1942

In reply refer to:
Consolidated Aircraft Corp.
XXI—C—1989

Mr. Roy M. Brown
Grand Lodge Representative
International Association of Machinists
1054 - 3rd
San Diego, California

Dear Mr. Brown:

This will acknowledge receipt of your letter of April 30, 1942, in which you state the case of Oliver H. Williamson has been settled to the satisfaction of your organization.

After conferring with the Regional Director on this matter I am instructed to inform you your negotiations with the company in this regard will in no manner interfere with the investigation. Mr. Williamson's name will remain in the charge and events related to his discharge will be examined together with other allegations now under consideration.

Yours truly,
ROGER G. McGUIRE
Field Examiner

RGM/dp

Mr. Riggs: Officer Crousen.

WELDON O. CROUSEN

a witness called by and on behalf of the Respondent, having been first duly sworn, was examined and testified as follows:

Direct Examination

Q. (By Mr. Riggs): Will you please give your full name and address to the stenographer?

A. Weldon O. Crousen, 1268 Robinson Avenue, San Diego, [450] California.

Q. Are you employed by the Consolidated Aircraft Corporation, and if so, in what capacity?

A. As police officer, yes.

Q. And how long have you been such?

A. About nine months.

Q. Were you a police officer in April 1942 when Mr. Williamson was discharged? A. Yes.

Q. Will you please state what you know about that matter for the benefit of the Examiner?

A. Well, I was called—it was a termination—I was called to building 1 and I was sent to the wrong building. I called my office and asked where to go and they told me to go to another place and that was still the wrong place. I called the third time and went to the right place this time and when I got there Mr. Williamson was talking very loud and had 12 or 15 men standing around him listening, and it all came up over Mr. Brown being fired.

Q. Now, what building was this in and at what time was it?

(Testimony of Weldon O. Crousen.)

A. It was in building 1 at Column No. 1-D-20.

Q. And that is at the Home plant?

A. No, sir; that is plant No. 2.

Q. The Parts plant?

A. Parts plant. [451]

Q. And was that your station at that time?

A. No—well, I was what they call general patrol—anywhere in the plant I wanted to go.

Q. And do you know who called you?

A. Sergeant Frayz.

Q. How long was it after you received the call before you arrived at the place where Williamson was?

A. Oh, it must have been about eight minutes.

Q. Now, what time of night was it?

A. I don't recollect just what time of night it was.

Q. Was Mr. Brown there?

A. Yes, sir.

Q. Who else was there?

A. Well, the foreman was there.

Q. Who was that?

A. Well, I don't know his name but I would recognize the man if I seen him.

Q. Is he in the room?

A. That is right; the gentleman sitting with the glasses right back there. That is him right there (indicating).

Q. And his name is—

A Voice: Eastin.

The Witness: That is right.

(Testimony of Weldon O. Crousen.)

Q. (By Mr. Riggs): What was Mr. Williamson doing—where was he; was he on the ground floor? [452]

A. Yes, sir.

Q. Now, were these men that were listening to him collected around him or were they off to one side?

A. Well, some of them was around him and some was standing around over to one side.

Q. And how many did you say were there?

A. Well, around 12 or 15.

Q. And what was Mister—what did Mr. Williamson say?

A. Well, he said that he had seen that go on—firing one man at a time until he wasn't going to stand for it any longer. He said:

“They bring a man in there and keep him until about the time he would get where he know what he was doing and when he produced the work he was supposed to do they would fire him.”

And that the foremen were working for a foreign government and he had heard them in German talking to each other and when anyone walked up, why, they would shut up.

Q. Did he say anything about who was running the plant? A. No, sir.

Q. Was Mr. Walter Brown there?

A. Well, I wouldn't know.

Q. Did you take him afterwards— —

A. Oh, you mean the man—

Q. He was the man being discharged? [453]

(Testimony of Weldon O. Crousen.)

A. Yes, sir, he was there.

Q. You escorted him to the office where he received his time and out of the plant?

A. That is right.

Q. Did Mr. Brown say anything during this time? A. No, sir.

Q. How long were you there before Mr. Liegal arrived?

A. Oh, 10 minutes.

Q. How long did this talk that Mr. Williamson was doing continue?

A. Well, he talked about five minutes and I got him quieted down. I told the men to go on back to their work; it wasn't no time to settle grievances in a place like that—that there should be a conference for that purpose.

Q. At any time did you hear Mr. Williamson tell the men to go back to work? A. No, sir.

Q. Did they go back to work when you told them to go back?

A. Yes, sir, went back to their benches.

Mr. Riggs: That is all.

Cross Examination

Q. (By Mr. Harrington): You say Williamson was talking in a loud voice in regard to him?

A. Yes, sir.

Q. What do you mean by a loud voice? [454]

A. Well, he was almost shouting. He was talking where everyone fifty feet from him could hear him, whenever there is as much racket as there are going on in the plant.

(Testimony of Weldon O. Crousen.)

Q. How many men were present, did you say?

A. Around 12 or 15 quit benches and was standing around them.

Q. Can you give the names of any of those 12 or 15? A. No, sir.

Q. What did you do when you came up to this group?

A. Well. I asked the men to go back to work and asked him to quieten down; it was not time to settle grievances.

Q. And how long were you there, did you say, before Liegal arrived?

A. Around 10 minutes. [455-456]

Mr. Harrington: No further questions.

Mr. Riggs: Thank you, that is all.

Q. (By Trial Examiner Hektoen): Officer, how long did you stay after Liegal arrived?

A. Just a minute.

Q. Did you talk to him?

A. Mr. Liegal?

Q. Yes.

A. No.

Q. You didn't take Mr. Williamson out?

A. I took Mr. Brown home.

Q. You didn't take Mr. Williamson anywhere?

A. No, sir. Officer Paxton taken Williamson.

Trial Examiner Hektoen: That is all. Thank you very much.

(Witness excused.)

Mr. Riggs: Mr. Eastin.

JAMES HARVEY EASTIN

called as a witness by and on behalf of the Respondent, having been first duly sworn, was examined and testified as follows:

Direct Examination

Q. (By Mr. Riggs): Give your full name and address to the reporter.

A. James Harvey Eastin, 4186½ Falcon. [457]

Q. Are you employed by Consolidated Company, and if so, in what capacity?

A. I am employed by Consolidated, assistant foreman in the jigs and fixtures department.

Q. Is that in Plant 2? A. Yes, sir.

Q. What was your position in April of 1942?

A. Same position.

Q. Who was your immediate superior at that time?

A. Milton Hangen.

Q. What is his position?

A. He is a foreman.

Q. Is there more than one assistant?

A. No, sir.

Q. Did you have a conversation with Mr. Hangen in April, 1942, about Mr. Walter Brown?

A. Yes, sir.

Q. Will you state what that was?

A. I was told that Mr. Brown was being discharged at 9:00 o'clock, and at half-past eight I

(Testimony of James Harvey Eastin.)

should call the plant policeman to escort him out of the plant.

Q. Did you call a plant policeman?

A. I did.

Q. What happened?

A. The policeman didn't come at 8:00, and I called the [458] second time and he didn't come, and the third time the policeman came. It was about eight or ten minutes to ten.

Q. Was the policeman who came the previous witness? A. Yes, sir.

Q. Did you see Mr. Williamson on that occasion? A. Yes, sir.

Q. Where did you see him?

A. Mr. Williamson objected to Mr. Brown being escorted out of the plant.

Q. What did he say?

A. He said that was no way to treat an American boy, and he said we were foreign agents if we discharged men indiscriminately, if we didn't treat the boys right, that we acted as foreign agents, that we were pushing good American boys around and taking bread and butter from women and children.

Q. Was his voice loud or soft?

A. His voice was very loud.

Q. Was he shouting?

A. He was shouting. I would say when a man makes himself heard to a gathered group, as he did in the department, where they are riveting wings, he is almost yelling.

(Testimony of James Harvey Eastin.)

Q. How many men clustered around while Mr. Williamson was talking?

A. Anywhere from nine to fifteen. I didn't count them. [459] I couldn't say how many men were there.

Q. Who was Mr. Williamson talking to? Directly to you, or to the men?

A. It was directed to me, it was directed to the policeman, and it was directed to the men that were standing around.

Q. Was Mr. Walter Brown there?

A. Yes, sir.

Q. What did he say, if anything?

A. Mr. Walter Brown didn't say a thing.

Q. Was anything said by Mr. Williamson about whether he was acting as a union committeeman or not?

A. When this started, the officer stated, said to Williamson that it should be settled with a committeeman, that that was no way to settle it. Williamson stated to the policeman and I that it wasn't a union matter, that it was a matter of American citizens, and that the F. B. I. should be notified of the things that were going on in the plant.

Q. Did Mr. Williamson take off his badge?

A. Not at this first. When he talked—Mr. Liegal asked Williamson if it was a union matter or not, and Williamson ripped off his badge at that time. He had his badge on while he was talking to the officer and I.

(Testimony of James Harvey Eastin.)

Q. How long after Williamson began to talk was it before Mr. Liegal arrived?

A. I would say 10 or 12 minutes. [460]

Q. Was anything said about Mr. Williamson ought to take off his badge if he was talking that way?

A. Will you repeat that?

Trial Examiner Hektoen: Read the question.

(The question was read.)

The Witness: I don't get what that means. There was nothing said about Williamson taking off his badge. There was something said about Williamson acting as a committeeman, but nothing about him taking off his badge.

Q. (By Mr. Riggs): Did he take off his badge?

A. Yes, he took off his badge when he talked to Mr. Liegal. He was wearing a badge when he talked to me, when he said it wasn't a union matter, that he was acting as an American citizen, not as a union committeeman.

Q. Did Mr. Williamson say anything about Nazis?

A. I don't remember whether he said "Nazis" in particular, but he specified German agents.

Q. Did he say anything about the Axis powers?

A. Yes, there was Axis powers mentioned.

Q. What was that?

A. German agents. He said we were agents, we were German agents, we were Nazis.

Q. After Mr. Liegal arrived, continue to state what happened.

(Testimony of James Harvey Eastin.)

A. After Mr. Liegal arrived I got out of that just as quick [461] as I could. I was supposed to be in Building 2 while all this was going on, and when Mr. Liegal arrived, I let Mr. Liegal handle it.

Q. Was Mr. Liegal your superior?

A. Mr. Liegal is my superior indirectly. He is Hangen's superior, and Mr. Hangen is my superior directly.

Q. Mr. Liegal was not then connected with the jigs and fixtures department?

A. He was not then connected with the jigs and fixtures department, but he is in charge of the whole plant, so he is my superior.

Mr. Riggs: That is all.

Cross Examination

Q. (By Mr. Harrington): Where did you see Williamson that night?

A. Where did I see Williamson?

Q. Yes.

A. This happened in 1-D-20, Building 1, just below Hangen's office.

Mr. Riggs: May I interrupt? When you say: 1-D-20, that is the number of the pillar?

A. 1-D-20 is the number of the pillar, approximately where Hangen's office was located.

Q. (By Mr. Harrington): How many were clustered around Williamson at that time? [462]

A. I would say nine, ten, twelve, or fifteen; a good group. I didn't count them.

Q. Can you name any of those men?

(Testimony of James Harvey Eastin.)

A. Not right offhand. I was too busy with Mr. Williamson to name any of the men.

Q. Where was your place of employment?

A. My place of employment is the jigs and fixtures department in Building 1 or 2. I generally work in 2 Building, but this night Mr. Hangen had gone out to lunch and I was in the office. The office that we work out of is in 1 Building.

Q. Were you present at the discussion between Williamson and Liegal?

A. Approximately a minute. I heard the incident of Mr. Liegal asking Mr. Williamson if this was a union matter, and Williamson said, "No," and ripped off his committeeman's badge. That's approximately all I heard. I got out of it just as quick as I could.

Q. You didn't hear Liegal say anything else?

A. I heard Liegal asking what it was all about, why the fuss, but I got out of it just as quick as I could.

Q. Did you hear Liegal say to him, "What the hell are you trying to pull off here?"

A. No, I never heard Liegal say that.

Q. Did you hear him say: "You are a rabble-rousing labor [463] agitator"?

A. No, sir.

Q. "And that you better watch out or you will be fired"?

A. No, sir.

Q. Did you hear him say anything in substance like that?

A. No, sir.

(Testimony of James Harvey Eastin.)

Q. Did you attend a conference on the next night with the company and union officials?

A. I attended a conference. I couldn't tell you if it was the next night or what night it was, but it was after this incident.

Q. And at that conference did Liegal say that he had not personally seen Williamson arousing or agitating the workers?

A. I couldn't substantiate that statement.

Q. Did he say anything in substance similar to that?

A. At that meeting?

Q. Yes.

A. No, I couldn't—I don't remember if there was anything like that said.

Q. Did Hangen make a statement that Williamson's work was of the very best?

A. Yes, he did.

Q. He did? A. Yes.

Q. Was it pretty noisy where Williamson was talking that night in the plant? [464]

A. Where they rivet wings, it is bound to be noisy.

Q. Is it necessary to talk quite loudly to be heard, that is, to be heard at any distance?

A. Well, generally we talk with our heads quite close together.

Q. But you have to talk loudly to make anybody hear you if you are far away from him?

A. Yes, you have to raise your voice a trifle.

Mr. Harrington: I have no further questions.

(Testimony of James Harvey Eastin.)

Redirect Examination

Q. (By Mr. Riggs) Did you have the talks with Mr. Brown previous to the time he was terminated?

A. No, sir, Mr. Hangen had the talks. I knew nothing about his termination, the termination of Mr. Brown, until Mr. Hangen was discharged, and I was told to call the plant policeman.

Mr. Riggs: That is all.

Trial Examiner Hektoen: Thank you.

(Witness excused.)

Mr. Riggs: Mr. Hangen.

MILTON C. HANGEN

called as a witness by and on behalf of the Respondent, having been first duly sworn was examined and testified as follows:

Direct Examination

Q. (By Mr. Riggs) Give your name and address to the reporter. [465]

A. Milton C. Hangen, 4759 Valencia Drive, San Diego.

Q. Are you an employee of the Consolidated Company, and if so, in what capacity?

A. I am employed as foreman in the jigs and fixtures.

Q. That is, the jigs and fixtures department in the second shift, Plant 2?

(Testimony of Milton C. Hangen.)

A. I was at the time, yes.

Q. You are not employed at that now?

A. No, I am on shift 1, now, instead of shift 2.

Q. You were foreman of that department in April, 1942? A. I was.

Q. Were Mr. Williamson and Mr. Walter Brown both in that department?

A. They were.

Q. Will you state what happened with reference to Mr. Walter Brown on or about April 14, 1942?

A. Walter Brown was called up to my office to be given an insurance policy and the clerk wasn't there when he arrived, so I brought up the little incident of what happened between him and his lead man, Mr. Ewart. I found, during the course of the evening, that a few days previous he had refused to work for Mr. Ewart, and in bring the subject up to him, wanting to know why, he was quite evasive at first. He said he just didn't like the man. But I finally drew out that he didn't want to work for the foreman because Mr. Ewart spoke with a [466] German accent.

Then I told him if he wanted to continue working for me he would have to work with whoever I put him under, whether he spoke a German accent or not. This he refused to do. So, just before leaving he said to me: "Well, I suppose that means I am through."

I said, "Yes, it means you are through tonight at 11:00 o'clock," not knowing how soon he would

(Testimony of Milton C. Hangen.)

get his money, I figured 11:00 o'clock I would leave him out. After he left, I called Accounting, to find out how soon I could get the man's money, because I figure he may go down in the shop and cause trouble, and it is better when firing a man that you get the man's money at 9:00 o'clock, and I changed the termination to read: Discharged at 9:00 o'clock.

Q. What was the original termination which had been put upon his card?

A. "Discharged, refused to take orders from the lead man."

Q. Was that afterwards changed?

A. That was afterwards changed.

Q. Will you tell how that came about?

A. That came about in the meeting that was held in Mr. Larimore's office with Mr. Wiseman present, and I believe they felt to take the easiest course, they would change it to "quit" instead of "discharged."

Q. Did anyone say that should be done in order not to [467] interfere with his employment elsewhere?

A. I believe that was the reason for changing it, but I won't say for sure.

Q. Did Mr. Brown say that he wouldn't have done anything to abuse or mistreat him in any way?

A. The only thing he had against Mr. Ewart was he spoke with a German accent.

Q. Did you ask him to give any further reasons why he didn't want to work for Ewart?

(Testimony of Milton C. Hangen.)

A. I did, but there weren't any other reasons he could give me, and he acted like a spoiled child.

Mr. Ryan: I object to that as a conclusion of the witness and move to strike it.

Trial Examiner Hektoen: It may be stricken. He didn't say anything else?

The Witness: No, sir.

Q. (By Mr. Riggs) When you left, did you say anything to Mr. Eastin about Brown being terminated?

A. Yes. I had an appointment with one of the other foremen, a dinner appointment, so I instructed Mr. Eastin to call the plant police at 8:30 to escort Mr. Brown out, that I had discharged him for refusing to work for Mr. Ewart.

Q. What did you do then?

A. I went out in the yard. It was customary at that time for some of us foremen to patrol the yard during the lunch [468] hour to keep the running down; we stopped the men from running and throwing trash around. After the whistle blew, I left and went to lunch.

Q. Did you see Mr. Williamson at all that night?

A. Yes, I did.

Q. Where did you see him?

A. Where did I see him? I saw him before I went out to lunch, yes.

Q. Were you there when Mr. Williamson was talking to Mr. Eastin? A. No, I wasn't.

Q. You didn't hear Mr. Williamson saying anything about Mr. Brown's discharge?

(Testimony of Milton C. Hangen.)

A. No, I didn't.

Q. You weren't there at that time?

A. No, I wasn't.

Mr. Riggs: That is all.

Wait a minute.

Q. (By Mr. Riggs) Did you see Mr. Williamson later with Mr. Liegal? A. Yes, I did.

Q. What happened then?

A. As I entered the plant, going back to my office, I met Mr. Liegal and Mr. Williamson heading, apparently, towards Mr. Liegal's office. I stopped and asked them what was [469] going on, because it seemed out of place to see Mr. Williamson and Mr. Liegal together.

Mr. Williamson started to explain, he was quite excited, but I calmed him down. Mr. Liegal explained it all come up over the discharge of Mr. Brown, that there was a little rumpus caused near my office. Then Mr. Williamson proceeded to state how he was working for Nazi bosses and we were gradually getting rid of all the good American boys and keeping nothing but the Germans, and he thought it wasn't—he said he felt it wasn't a union problem any more; he didn't care to talk with us; he preferred to call in the F. B. I. on the case because he felt we weren't the right ones to talk to about it.

Q. Did Mr. Liegal give you any instructions at all?

A. Yes. Mr. Liegal said to me, he said: "This looks like a hopeless case. I can't do anything

(Testimony of Milton C. Hangen.)

with him. I am going back to the office. You take him down and do what you see fit. I know what I would do."

Q. What did you do?

A. I took him down to the office, and not being a Nazi sympathizer, I hate to be called a Nazi sympathizer. Therefore, to stop him from ever spreading that around to any of the other men, I had no other course but discharge him for it.

Q. And you did discharge him? [470]

A. I did, yes, sir.

Mr. Riggs: That is all.

Cross Examination

Q. (By Mr. Harrangton) In this incident about Brown refusing to work for Ewart, did Brown tell you at that time he wanted to quit?

A. Not to my knowledge, no.

Q. Did you tell him he could quit at that time, this conference you had before lunch?

A. No.

Q. What did you tell him at that time?

A. I told him we could not use his services any longer if he would not work where we put him.

Q. What did you mean when you said in your direct examination you did not want Brown going back in the plant because you were afraid he would talk?

A. Well, when an employee is leaving it is best they leave right then, instead of going back; when they know they are leaving as a rule, he won't be

(Testimony of Milton C. Hangen.)

on the job working, he will be around talking, and if he felt this man Ewart he was working for was a foreign agent, he is apt to try to influence others to believe the same thing.

Q. Where did you meet Liegal and Williamson that evening?

A. I met Liegal and Williamson I would say about 150 feet from the north entrance of the building. [471]

Q. And you had a conversation with him at that time?

A. We had a conversation there, yes.

Q. What was that conversation?

A. That conversation was to the effect, at first, I tried to find out what the reason was that he was with Mr. Liegal.

Q. What was said? Can you tell me what Liegal said and what Williamson said?

A. Liegal didn't have too much to say, outside of he explained to me that it all came up over this discharge of Mr. Brown and that Mr. Williamson had a group of men gathered around him, talking quite loudly, and waving his arms. Then Mr. Williamson proceeded to explain to me what happened there and about us Nazi sympathizers, and he at that time got very boisterous.

Q. What did he say? A. Pardon me?

Q. What did Williamson say? Give us his exact words.

A. He said he was working for Nazi bosses—his bosses were working for the Nazi government

(Testimony of Milton C. Hangen.)

and that we were gradually discharging the good American boys and keeping nothing but the German boys.

Q. Did Liegal say to Williamson at that time: What do you mean, German? I am a German; you are too, only you don't have sense enough to know it, or words to that effect?

A. He said words similar to that. He didn't say: You are [472] a German. He said: You are a foreigner and don't know it. And of course, in other words, we all date back, we are all foreigners.

Q. Can you recall what Liegal said?

A. Yes. Liegal said he was of German parentage, and we all are foreigners of some type; even you, yourself. Or words to that effect. I don't know the exact words.

Q. Did Liegal say to Williamson: "You wouldn't have anything to talk about. You haven't said anything smart yet; you are just plain dumb"?

A. If he did, I don't recall it at all.

Q. Did you attend a conference the following night when this case was taken up?

A. I did.

Q. At that conference did you state Williamson's work was very excellent and that he was a good and considerate committeeman?

A. That is correct.

Q. Is it correct that Williamson never referred to you specifically as a Nazi sympathizer?

A. Ever referred to me?

Q. Yes.

(Testimony of Milton C. Hangen.)

A. Well, I figured he referred to me because I was his boss.

Q. What made you think he referred to you, and what did he say? [473]

A. He said he was working for Nazi sympathizers. Not Nazi sympathizers. That is wrong. His bosses were working for the Nazi government.

Q. Might he not have said "the Axis" instead of "Nazi"?

A. I don't recall during our conversation where he used the word "Axis."

Q. At this meeting the evening following his discharge, did Liegal admit he hadn't personally seen Williamson arousing or agitating the workers?

A. Will you read that again?

Trial Examiner Hektoen: Read the question.

(The question was read.)

The Witness: I don't recall that. [474]

Mr. Harrington: I have no further questions.

Mr. Riggs: That is all.

(Witness excused)

Mr. Riggs: Mr. Liegal.

HENRY J. LIEGAL

a witness called by and on behalf of the Respondent, having been first duly sworn, was examined and testified as follows:

Direct Examination

Q. (By Mr. Riggs) Your full name and address, please?

(Testimony of Henry J. Liegal.)

A. Henry J. Liegal, 810 Avalon Court, Mission Beach, San Diego.

Q. Are you the factory superintendent of the second shift in plant 2 of Consolidated?

A. I was at the time.

Mr. Harrington: At what time?

The Witness: I am day superintendent now.

Q. (By Mr. Riggs) You are day superintendent now? A. Yes, sir.

Q. In April 1942 were you the factory superintendent of the second shift in plant 2?

A. Yes, sir.

Q. How many departments were there under you?

A. Well, in fact the whole plant was under me.

Q. And did that include the jigs and fixtures department? A. Yes, sir. [475]

Q. Of which Mr. Hangen was the foreman?

A. Yes, sir.

Q. Do you remember the circumstances surrounding the discharge of Mr. Williamson on the evening of the 14th of April 1942?

A. Yes, sir.

Q. When did you first hear of the matter?

A. I was called to the phone by the plant police and was notified that there was a little trouble down in the tool and jig department.

Q. What did you do?

A. I started down there and got down there, oh, I would say, between 8:30 and 9—I think somewhere in that neighborhood.

(Testimony of Henry J. Liegal.)

Q. What did you find when you got there?

A. I found the officer there and in looking around the side of the office I found Mr. Williamson with a crew of men around there—I would say approximately, might have been 8, 9, 10 or something like that.

Q. What was Mr. Williamson doing?

A. He seemed to be, in my opinion, he was using a very loud tone of voice and seemed to be kicking about something. I couldn't understand just what it was all about.

Mr. Harrington: I object to statements like "in my opinion" and "it seemed to me." Can you tell us what he did?

Q. (By Mr. Riggs) Was he talking in a loud tone of voice [476] or soft tone?

A. Loud tone of voice.

Q. Was he surrounded by any people and if so, how many?

A. He was surrounded, I would say, by 9 or 10 or 12 men within a distance of 5, 10 or 15 feet.

Q. Who was he talking to?

A. He was addressing the men in general.

Q. What was he doing with his arms?

A. Well, I noticed when Mr. Williamson gets mad he goes like this (demonstrating) and everything was going this way.

Mr. Riggs: The witness is waving his arms around his head.

The Witness: He was all excited is the way I would look at it.

(Testimony of Henry J. Liegal.)

Trial Examiner Hektoen: Was he doing that then?

The Witness: He was doing it as I came there. I walked over to the group and I called Williamson to one side and asked him what it was all about.

Well, he made the remark then, he says:

"The Union is out of this."

He took his button off and—pulled it off and put it in his pocket and he said, he says:

"I am on my own," he says, and I tried to quiet him down. In fact that is all I could do or try to do for the next five minutes. Finally I told him: [477]

"Let us take a walk down the aisle and go to my office," and I said: "We will talk this over there."

Q. (By Mr. Riggs) During the five minutes that you refer to, did he stop talking at any time?

A. He did calm down for awhile and we started out.

Q. Well, what did he say when he was talking to the men that were around him?

A. He made remarks about the foremen working for Germans.

Q. State what he said, or if you can't remember the exact language, give the substance of it?

A. He made remarks about working for—the foremen were working for the German Government—the Nazi Government, and words to that effect, and I did tell him that all of us were to some

(Testimony of Henry J. Liegal.)

extent foreigners—I, personally, my grandparents were born in Germany and naturally all of us were to a certain extent foreigners—that is, they were born in a foreign country.

Q. When did you say that?

A. I made the remark, I think, when I was standing there.

Q. What happened there? Did you ask Mr. Williamson to go to your office with you?

A. I did.

Q. Did he go?

A. Well, he started out from there and as we got down the aisle about 100 or 150 feet, Milton Hangen came along and [478] I said:

“Here comes Milt, let us stop and talk it over with him and we will have him come to the office with us.”

Q. State what conversation ensued then and as to who said it and if you can't give us the exact words, give us the substance of it?

A. Approximately the same thing came up again, about working for the Germans or Nazis.

Q. Wait a minute. Who said that?

A. That was what Mr. Williamson said and the thing got to the point where it started all over again in an uproar and finally I tried to quiet him down.

I said:

“Well, Milt,” I said, “you might just as well take over.” I says: “Use your own judgment in this case and do as you please.”

(Testimony of Henry J. Liegal.)

And I walked away from him.

Q. What did Mr. Hangen say?

A. Well, he took him towards his office then and I went toward my office.

Q. How long did Mr. Williamson continue talking to the men after you got there?

A. Well, I think we stood in the aisle just about three or four minutes.

Q. Did you see Walter Brown there? [479]

A. I seen a man at the tool crib who was checking in his tools, but I didn't stop to talk to him and I didn't know the fellow.

Q. You didn't know Walter Brown by sight?

A. No; I didn't know Mr. Williamson until that night.

Q. Had you ever seen Mr. Williamson before?

A. Never had seen him before.

Q. Was anything said by Mr. Williamson or by you about employees being escorted by a plant policeman after discharge?

A. Well, he did make a remark, I think, to the policeman—he didn't say nothing to me personally but, in fact, I am pretty sure he didn't say nothing to me outside of the policeman that he objected to having policemen come in and take anybody out of the plant like that, although I told him that was our—I told him that was the company's policy for us to do—in fact our orders were to call in a plant policeman at any time that somebody was discharged.

Mr. Riggs: That is all.

(Testimony of Henry J. Liegal.)

Cross Examination

By Mr. Harrington:

Q. When you came up to Williamson that evening, did you tell him that he was a rabble rousing labor agitator and he better watch out?

A. I didn't say that at all.

Q. Did you tell him that you could do plenty to him?

A. I did not. In fact I didn't even know the man so I [480] couldn't tell him that.

Q. Did you use any language similar to that?

A. No, sir.

Q. When you and Williamson met Hangen, what was that conversation?

A. Well, just a matter of repetition of just what happened there.

Q. Well, what was said?

A. About the foremen working for the German government or the Nazis.

Trial Examiner Hektoen: Wait a minute, Mr. Liegal. What we want is a picture of what happened when Hangen joined your group. That made three. Who started talking?

The Witness: I stopped the group there and I said:

"Here is Milt Hangen, let all three of us go to our office."

Well, I think Mr. Williamson started off then and between Milt and himself and myself, we got all excited.

(Testimony of Henry J. Liegal.)

Trial Examiner Hektoen: You got along fine for awhile. Then what did Williamson say?

The Witness: Well, he talked——

Trial Examiner Hektoen: Say what he said if you possibly can.

The Witness: I don't know. It was kind of confusing there. It is kind of hard to recall just what was said. [481] Everybody was excited, naturally, but I do know there was some remark about Mr. Williamson saying the foremen were working for Germany or the Nazis.

Trial Examiner Hektoen: And what did you say or what did Hangen say?

The Witness: That is where the remark came in, when I told them that I thought all of us to some extent or other were foreigners or something—foreign in some foreign country.

Of course, Mr. Williamson, he come out with the remark, I think I remember it, that his people came over in the Mayflower or something like that.

Q. (By Mr. Harrington): Did you say to Williamson that he was German too only he didn't have sense enough to know it?

A. By looking at him I wouldn't say he was German.

Q. Well, did you say that?

A. No, I didn't.

Q. At the conference following—at the conference the following evening—were you at that conference?

A. That was, I think, in the morning about a

(Testimony of Henry J. Liegal.)

week later. I think probably two or three days later. I am pretty sure it was around noon time, if I am not mistaken.

Q. Had you ever seen Williamson arousing or agitating workers prior to this incident?

A. I never knew the man. [482]

Mr. Riggs: He said he never saw him before.

The Witness: I never saw him before. In fact I might have saw him around the plant but I wouldn't know the man because there are eight or ten thousand people there and I wouldn't know him. I would know the foremen and that is about all.

Mr. Harrington: I have no further questions.

Redirect Examination

By Mr. Riggs:

Q. When you first came up to Mr. Williamson, when he was talking with some men around him, did you say anything about:

"It doesn't look very good for union committee-men to be standing around talking this way."

A. That is right. That is the time he took his button off and says:

"I am on my own and the union has nothing to do with this," or something similar to that.

Mr. Riggs: I have nothing further.

Recross Examination

By Mr. Harrington:

Q. Isn't it true that Williamson wanted to go to your office with you and talk with you in the pres-

(Testimony of Henry J. Liegal.)

ence of an FBI man; did he tell you that?

A. No, sir, he didn't say nothing about FBI at all.

Q. Did he say anything about talking in the presence of a government man or G-man? [483]

A. Didn't say a word. I was the one that suggested going to my office and also with Hangen to see if we couldn't straighten the thing out without having everybody looking on and making a scene and the thing got to the point where I couldn't talk with Mr. Williamson. He just got all excited, so I decided to drop it and let Mr. Hangen decide what to do himself.

Q. When you were talking to Williamson at that time before the two of you men, you and Hangen, did you tell him that it wouldn't be necessary for him to punch out the timeclock—that he could talk to you on company time?

A. No, I never mentioned that. In fact he could talk to me on company time all night long if he had to.

Q. Well, you stated that he said something about this "being on my own time"?

A. That is what he said.

Q. What did you say then?

A. I didn't say anything to that remark. He just took his button off. I think I mentioned then that we would start for our office.

Q. Did he say anything to you about that conversation—did he say anything to you in that con-

(Testimony of Henry J. Liegal.)

versation about production and morale in the department being down to a bad low?

A. He didn't say anything to me about that.

Q. What did he say to you? [484]

A. He just talked about, mostly about working for Germans. The whole thing he was so darned excited I couldn't make out what the devil he was trying to get at.

Q. How long did he talk to you?

A. Wasn't much more than five minutes between the two points. In fact I was only in the picture about five or six minutes all told and I tried to quiet him down and tried to get at the bottom of it to try to find out what it was all about, but I found out in an around about way that this fellow was being discharged and he didn't like the idea of the police coming in and taking him out, but I figured that was the company's right and we had orders to do that and we were obeying orders.

Mr. Harrington: I have no further questions.

Mr. Riggs: That is all.

Trial Examiner Hektoen: Thank you, Mr. Liegal.

(Witness excused.)

Mr. Riggs: I have one more witness with reference to the Williamson matter. In the meantime I will go ahead with the Fisher case.

Trial Examiner Hektoen: Very well.

Mr. Riggs: Call Mr. Mohr.

ROBERT B. MOHR,

a witness called by and on behalf of the Respondent, having been first duly sworn, was examined and testified as follows: [485]

Direct Examination

By Mr. Riggs:

Q. What is your full name and address?

A. Robert B. Mohr, 4437 Cleveland.

Q. Are you employed by Consolidated and if so, in what capacity?

A. I am employed by the Consolidated at the present time as assistant foreman in department 69.

Q. Is that the wing department at plant 2?

A. Yes, sir; wing department.

Q. What was your employment in November 1940?

A. 1940? A leadman in the wing department—in charge of the bulkhead assembly.

Q. Who was your foreman?

A. Mr. Powell.

Q. Who was your foreman in November 1940?

A. 1940?

Q. Mr. Mineah?

A. No, Mr. Mineah wasn't the foreman then; November 1940. It was Mr. Powell or Ezart.

The Reporter: Will you spell that, please?

The Witness: E-z-a-r-t.

Mr. Powell was promoted after Mr. Ezart and I don't know when the dates were.

Q. Do you know Mr. A. J. Fisher?

A. Yes, sir. [486]

(Testimony of Robert B. Mohr.)

Q. When did you first meet Mr. Fisher?

A. I don't remember the date that I first met Mr. Fisher before he worked for me. It was somewhere, I think, in 1939, or 1938—1938 or 1939.

Mr. Ryan: Talk louder; we can't hear you.

Mr. Riggs: Will you keep your voice up?

The Witness: When I first met Mr. Fisher before he worked under my supervision, I think it was in 1938.

Q. (By Mr. Riggs): When did he first work under your supervision?

A. Under my supervision? Either the last part of 1939 or the first of 1940.

Q. Well, do you remember having a talk with Mr. John B. Waskey about Mr. Fisher?

A. Yes, sir.

Q. Will you repeat that talk that you had with Mr. Waskey?

A. Mr. Waskey came to me. He said:

"I have a man I am going to send up to you—Fisher."

He says: "I have had him on spars but he talks a little too much and he keeps everybody from working, so I am going to send him up to you to see what you can do with him."

So I said: "All right."

So Mr. Waskey sent Fisher up in the bulkhead department under my supervision. [487]

Q. Do you know whether Mr. Fisher had been discharged and rehired at that time?

A. Mr. Waskey told me, I think, that Fisher

(Testimony of Robert B. Mohr.)

had worked in the sheet metal department and had been discharged and he had been given a job back again under the condition that Mr. Waskey would keep Fisher under his supervision and see that the company got, or see that he kept out of trouble and the company got their 8 hours work out of him, or whatever his tour of duty consisted of.

Q. Was Mr. Fisher—did he have any connection with the union at that time, if you know?

A. He had what?

Q. Any connection with the union at that time.

A. With the union?

Q. Yes.

A. I think he was a member of the union at that time.

Q. Was he a shop committeeman or an official?

A. No, he wasn't a shop committeeman. Mr. Fisher wasn't a shop steward when he first came to me. When he came to me Mr. Perry was the shop steward but Mr. Perry, I think, was elected to treasurer or financial secretary and then Mr. Fisher was elected shop steward.

Q. Well, was he a shop steward while he was in your department? A. Yes, sir.

Q. Now, can you tell us anything—tell us whether at any [488] time Mr. Fisher left his department?

A. You mean on union business? Yes, sir.

Q. Can you tell us any circumstances of his

(Testimony of Robert B. Mohr.)

leaving, whether he left with your permission or without your permission?

A. I was working in No. 4 building of No. 1 plant and I missed Fisher one morning, so I looked around and I couldn't find him nowhere about the department. I asked several of the boys if they had saw him and they said that he had gone some place about the union. So I waited until he come back. The time that elapsed, I guess, was between two and three hours. So I happened to be sitting at my desk. It was right at the step where he had to come up and I called him over and said, "Where have you been?" "I have been over to see Mr. Powell and Mr. Kelly," he says. I says, "Don't you think before you leave the department you should let me know so I know whether I have got to have somebody else fill in your job or not?" He said, "I don't have to do that." He said, "Mr. Powell knew I had to go away from here."

I said, "Mr. Powell or no Mr. Powell, hereafter don't leave this department unless you let me know that you are going to leave." He said, "I was on union business." I said, "That doesn't make a bit of difference, if you are on union business, all you have got to do is to tell me you [489] have got to go to Mr. Kelly's office and it is all right. Then I will know you are gone. Otherwise I don't know where you are at, or what you are doing. I don't know whether you are on union business, or whether you are just roaming around somewhere."

(Testimony of Robert B. Mohr.)

So he kind of resented it and I went down to see Mr. Powell.

Q. Wait a minute. What did he say?

A. Pardon me?

Q. What did he say? Did he threaten to report you to anybody?

A. He said he didn't have to report to me. He said Mr. Powell knew he was gone and that let it out, so I went down and asked Mr. Powell and Mr. Powell told me that Fisher positively must report to any lead man that he works for, otherwise the lead man don't know what his department is doing or what his men are doing.

Q. Were there any other occasions on which you had any talk with Fisher about his leaving the department with or without permission?

A. Well, there were several times, but that was an outstanding one, because he was gone so long.

After that Mr. Powell called him and told him that he positively had to tell the lead man.

Trial Examiner Hektoen: Were you there when he said [490] that?

The Witness: Yes, sir. Mr. Powell came up into the department.

Q. (By Mr. Riggs): That is Mr. Steve Powell that you are speaking of, isn't it?

A. Pardon me?

Q. Is that Mr. Steve Powell you are talking about?

A. Steve Powell, that is right, he was foreman of the wing department at that time.

(Testimony of Robert B. Mohr.)

Q. What did Mr. Powell tell Mr. Fisher in your presence again?

A. He told Mr. Fisher that in the future if he had to leave the department for any business whatsoever, he must come and inform his lead man regardless if it was me or who it was, and Fisher nodded his head, acknowledging that was what he would do in the future.

Q. Did Mr. Powell say that he should secure the permission of the lead man?

A. That he had to come and inform the lead man and get permission before he could leave the department.

Q. What have you got to say with reference to Mr. Fisher's contact with other men in the department?

A. Well, when Fisher was first elected shop steward one of the men came to me—this man didn't get a raise, so I says, "Well, Ed, I will go down and talk to Mr. Powell about [491] it because I think you deserve one." So I went down and I talked it over with Mr. Powell. Anyhow the result was the man didn't get the raise. So I told Mr. Thomas, that was Ed Thomas, at that time one of the mechanics working for me, "Why don't you go down and see Powell?" "Oh, never mind," he says, "I will forget all about it."

Then Fisher got elected shop steward. Ed Thomas asked—said to me, "I am going to get a raise." I said, "Good, did you go down and see Mr. Powell?" "No," he said, "Fisher came down

(Testimony of Robert B. Mohr.)

and called me and told me that he was going to take the case up."

I said, "Did you present him with a grievance or anything?" "No," he said, "I was going to drop it altogether but Fisher said he will get me a raise—he said so." "Good luck to him," I said, "If you get a raise because I think you really deserve one."

But several other men had told me that they were going to let their cases drop but said that Fisher approached them about getting a raise, so I decided that that was wasting too much time. I asked the men if he approached them during working hours and they said "Yes," and I went to him and I said, "Fisher, why don't you do this job right? If they have got a grievance, take it up for them and if you have business you want to talk to them about for the union, you shouldn't do so on working hours. Don't do it," I said, [492] "Because you, in your position now, are going to be outstanding above the other men; they are going to look forward to you—what you are doing, and it is up to you to set an example for them and not go around and agitate these things."

He said that if that is the attitude I was taking toward it, "I will take you to Mr. Kelly," he says, "I think you and Jack Waskey are just trying to get me, or something like that." "No," I said, "nobody is trying to get you, Fisher." I said, "What happened before you came to work for me means nothing; what you do from now on, or the

(Testimony of Robert B. Mohr.)

day you came here, that means something to me.”

So I told him that whenever he wanted to take me to Mr. Kelly that was up to him or any grievance he had against me he should present it to Mr. Kelly and it would be all right with me. And I went to my supervisor, Mr. Waskey at that time, and I informed him of exactly what Fisher had told me—that Waskey and I had been gunning after him and I will assure you I never went out of my way to do that man any harm.

Q. Did any men in your department complain to you at any time that Fisher was bothering them as to how they should do their work?

A. That was in No. 4 building. Several of the men that worked for me came to me and wanted to know who was boss or was the lead man in the department—Fisher or I. And [493] told them that I was and asked them what was the matter. They said, “Well, Fisher is coming down and telling us how we should do our work”—they shouldn’t do this or they can’t do that and things like that, so I again went to Fisher and talked to him.

I said, “Now, Art, you can’t do those things. I am the boss of the department and if those men aren’t doing the work right I will take care of it, and I will instruct them how they should do it. Just leave them alone.”

So he didn’t like the idea of my telling him that but anyhow I think he left them alone because I didn’t have much more trouble on that score after that.

(Testimony of Robert B. Mohr.)

Q. Did Fisher eventually leave your department?

A. Fisher eventually left my department, at my *request of* Mr. Waskey and Mr. Powell.

Q. When did he leave?

A. Pardon me?

Q. When did he leave?

A. Well, I couldn't remember the date, but I went to Mr. Waskey and told him that he had to move Fisher after this here incident that I just mentioned to you, about telling the boys what to do and what not to do, because it was causing unrest. The boys, they didn't know who to listen to or anything else, so I told Mr. Waskey that he positively had to move Fisher out of the department because I couldn't [494] get along with him and my men were dissatisfied and they were losing respect for me because they thought I was letting Fisher get away with something.

Mr. Ryan: I object to that as a conclusion of the witness, unless he names the particular men he talked to.

Trial Examiner Hektoen: It is all volunteered, anyhow. We are still trying to get the date when he left your department.

The Witness: Well, I couldn't tell the date.

Trial Examiner Hektoen: All right, if you can't, then I wish you would stop and not go on.

The Witness: I couldn't tell the date because I don't keep the date every time a man changes. [495]

Q. Did he eventually leave your department?

(Testimony of Robert B. Mohr.)

A. He eventually was sent to the spar department under the supervision of another lead man.

Mr. Riggs: That is all.

Cross Examination

By Mr. Harrington:

Q. At this time that you missed Fisher, you stated you missed him one morning and was told he was gone on union business?

A. Pardon me?

Q. One morning when you missed Fisher you heard he was gone on union business?

A. On union business, yes.

Q. At that time, what was your position?

A. Lead man.

Q. What was Powell's position?

A. Mr. Powell was foreman of the wing department at that time.

Q. Where had you been just prior to the time you missed Fisher ?

A. Well, the department under my supervision ran about half of the mezzanine of the building I was in, which may have been, I guess, six or seven hundred feet, and I may have been at the other end of my department and supervising the other part, and walked down. That is when I missed him.

Q. You don't know how long he had been missing? [496]

A. He had been gone before I missed him, I don't know, but from the time I missed him up until he

(Testimony of Robert B. Mohr.)

came back was a period of two or three hours that had gone.

Q. You testified, I believe, that Thomas was the name of the man who didn't get a raise?

A. Mr. Thomas.

Q. You testified Thomas told you Fisher told him he was going to get a raise? A. That is right.

Q. Is it your understanding of Fisher's union position that he had to wait until somebody came up to him before he could act as a union committeeman?

A. My understanding is that a shop steward should be presented with a grievance by the man that has the grievance, and when he has that grievance—first, the man that has the grievance should come up to either the lead man or the assistant foreman, or foremen, and present the grievance, talk it over, and see if it can be straightened out. Then, if they can't come to an agreement with those people, then he takes it to the shop steward; then the shop steward presents his grievance to the foreman of the department, the way I understand.

Then, if there is disagreement then, it is carried, step by step, up, until it gets to the superintendent of the workers, the management, or as high as it may go. [497]

Q. Is it your understanding if the union shop steward sees something in the department he feels is wrong, it isn't in accordance with union agreement, you understand he can't do anything about that unless a grievance is presented to him?

A. No. If a shop steward sees anything in the de-

(Testimony of Robert B. Mohr.)

partment that wasn't right, he should come to the head of the department and talk it over with him to try to straighten it out.

Q. In Thomas' case, who was the head of the department at that time? Powell?

A. I was. The bulkhead department that Mr. Fisher and Thomas work in?

Q. Yes.

A. I was head of the department, lead man of the department.

Q. Did you have anything to do with wages?

A. No, but Mr. Thomas talked it over with me, and I went down to Mr. Powell and seen him, as lead man; but after that, I didn't hear any more about that case until Mr. Thomas came and told me, and I asked him, I says: "Did you go down to see Mr. Powell? I think it might be straightened out."

He says, "I forgot all about it. Fisher told me he was going to take it up."

I told Fisher, "If you got any of those things, come to me, or somebody else, before you start up-setting these men, because these men appear to be satisfied." [498]

Q. When was this? When did this incident occur?

A. Right after Fisher was elected shop steward. You people remember when Fisher was first elected shop steward. I don't know the date of it.

Mr. Harrington: I have no further questions.

Redirect Examination

Q. (By Mr. Riggs) What do you say as to the character of Mr. Fisher's workmanship?

(Testimony of Robert B. Mohr.)

A. Pardon me?

Mr. Riggs: Read the question.

(The question was read.)

Q. (By Mr. Riggs) While he was under your control, from your observation.

A. Mr. Fisher's character as an employee was one that——

Trial Examiner Hektoen: That isn't quite what we want. How was his workmanship?

The Witness: That he was always dissatisfied.

Trial Examiner Hektoen: Well, how was his workmanship?

A The workmanship that he done was about the average, when he did it, if you let him have his own way. But, for instance, Mr. Fisher had a job, one day, assigned, that I considered was important, and the part we found was too long——

Mr. Ryan: I am going to object to this unless he tells when it happened or whether anybody was around. We can't defend against this kind of testimony. [499]

The Witness: Yes, sir. I will tell you when it happened.

Trial Examiner Hektoen: Just a minute. Let us get back to dialogue examination.

Mr. Riggs: Read the last part of his answer.

(The record was read.)

Q. (By Mr. Riggs) Can you give the Examiner any specific instances, mentioning the time and place, if you can, when Mr. Fisher's workmanship did not

(Testimony of Robert B. Mohr.)

come up to what you considered to be the right kind?

A. This case was in the home plant, Building No. 4, maybe February of 1941. The part I found was too long. Instead of bringing it to me or having the part corrected, he cut it off, cut off a stop of the wood assembly picture, in order that the part would fit in, and that part controlled, or was one of the parts of assembly that controlled the landing gear of a B-24 bomber.

And the stop that he cut off I took to Mr. Waskey and showed it to him, that the part had been cut off, and Mr. Waskey himself came up and talked to Fisher about removing that part.

Q. Do you recall any other incidents?

A. On another incident, maybe about a month, or some time about that time, it was still over in the home plant, the inspector came to me and said, "Bob, these drag braces Fisher [500] is working on I won't take."

So, I went and looked at them. They weren't in line, and they had to be reworked.

Q. What is a drag brace?

A. A drag brace is a triangular-shaped little assembly that is put on to brace a spar, an auxiliary spar, onto the upper surface and lower surface of the wing in the bulkhead.

Q. What is a spar?

A. A spar is a part that runs, connects the bulkheads, or ties the bulkheads into the wing; the bulkhead is what we call—what we call a bulkhead—in

(Testimony of Robert B. Mohr.)

other words, is what the average persons calls ribs in the wing.

Q. Going back to the drag brace, continue about the drag brace, as you started to talk about it.

A. That is right. I asked Fisher why he did the drag braces that way, and he said it was not wrong. I said, "It is wrong. I can't ask the inspectors to take it."

He said, "They got a right to take it."

I had been supervising the job a year or two, and I had worked on the B-24 bombers, and I knew how they should be built, and I should know whether they were right or wrong. The inspector told me he couldn't pass it. And we had to rework them, and I told him I didn't want that done that way in the future. We had to rework the drag braces.

Q. Was there any other occasions when you found his work [501] unsatisfactory?

A. No more than the average man, but they were just too outstanding things, because everybody makes mistakes, and you have good work and bad work at different times.

Mr. Riggs: That is all.

Cross Examination

Q. (By Mr. Harrington) When did your department move from Building No. 3 to Building No. 4?

A. Building No. 2 to Building No. 4?

Q. Yes, from Building No. 2 to Building No. 4.

A. That is right.

Q. When was that moved?

(Testimony of Robert B. Mohr.)

A. We will say around the last part of '40 or the first of '41, somewhere in between that, at the end of the year, or the beginning of the year; it may have been from November to January, or somewhere in that. I just can't remember dates.

Mr. Harrington: I have no further questions.

Trial Examiner Hektoen: That is all.

(Witness excused.)

Trial Examiner Hektoen: We will take a five-minute recess.

(Short recess.)

Trial Examiner Hektoen: We will be in order, please.

Mr. Harrington: Will you mark these for identification? [502]

(The document referred to was marked as Board's Exhibit No. 25 for identification.)

Mr. Harrington: By common consent of counsel for Consolidated Aircraft Company and for the Board, we introduce this memorandum to all employees, from I. M. Laddon, dated March 9, 1942, as Board's Exhibit 25.

Trial Examiner Hektoen: It will be received.

(Thereupon the said document heretofore marked for identification Board's Exhibit No. 25 was received in evidence.)

BOARD'S EXHIBIT No. 25

Consolidated Aircraft Corporation
San Diego, California

9 March 1942

Memo to: All Employees

Subject: Change in Working Hours—Plant #1

Effective Saturday, 14 March 1942, the regular working schedule will be changed to the following:

Monday through Saturday — Factory Productive

First Shift

7:00 A.M. to 11:00 A.M. 11:30 A.M. to 3:30 P.M.

Second Shift

4:30 P.M. to 8:30 P.M. 9:00 P.M. to 1:00 A.M.

Third Shift

In all Departments required for third shift operations the hours will be as follows:

12:00 M. to 4:00 A.M. 4:30 A.M. to 7:00 A.M.

Monday through Saturday — Office

First Shift

7:00 A.M. to 11:00 A.M. 12:00 N. to 4:00 P.M.

Second Shift

4:30 P.M. to 8:30 P.M. 9:00 P.M. to 1:00 A.M.

Third Shift

12:00 M. to 4:00 A.M. 4:30 A.M. to 7:00 A.M.

Departments that are required to work the third shift will work six and one-half ($6\frac{1}{2}$) hours and be paid for eight (8)

I. M. LADDON

Executive Vice President and
General Manager

Mr. Riggs: Mr. Ewart.

FRED EWART

called as a witness by and on behalf of the Respondent, having been first duly sworn, was examined and testified as follows:

Direct Examination

Q. (By Mr. Riggs) Give your name and address.

A. Fred Ewart, 4516 Estes Street.

Q. Are you employed by Consolidated?

A. Yes, sir.

Q. Were you so employed in April, 1942?

A. Yes, sir.

Q. At that time was there a man named Walter Brown working under you? A. Yes, sir. [503]

Q. In April of 1942 at any time did you ask him to do any particular job of work? A. Yes.

Q. Will you state what that was?

A. It was a rework on a spot bracing fixture which had to be done immediately, something was wrong with it, and it had to be straightened out immediately.

Q. Was it a rush job? A. Yes.

Q. Can you fix the date?

A. No, I couldn't. I couldn't fix the date.

Q. Can you fix the month?

A. It's approximately five or six months ago; probably five months.

Q. Do you remember the time when he was discharged? A. Yes.

Q. Was it before that?

A. It was—before what?

(Testimony of Fred Ewart.)

Q. Was it before his discharge?

A. What do you mean: Was it before his discharge?

Q. How many days before his discharge was it, or how many weeks, if you remember?

A. I don't know what your are driving at. Before what?

Q. Do you remember the date when he was discharged?

A. No, I don't. I don't remember the date. [504]

Q. When you asked him to do——

A. I believe it was the day after the incident, after the trouble I had with him.

Q. When you asked him to do this job, what did he say?

A. Well, he said: "I don't want to work for you. I don't like you. You got an accent, and I don't like you." That is all he said.

Q. Did he say anything about you being a German?

A. No, I don't think so. I didn't hear that.

Q. Are you German-born?

A. German-born, yes.

Q. Are you an American citizen? A. Yes.

Q. Were you born in this country?

A. No, I was born in Germany.

Q. When did you come to this country?

A. In 1925.

Q. How old were you? A. 19.

Q. Have you been here ever since?

A. Yes.

(Testimony of Fred Ewart.)

Q. Have you ever belonged to any German organization, such as the bund, or any other German organization? A. No.

Q. Did you report this incident to Mr. Hangen?
[505]

A. Yes.

Mr. Riggs: That is all.

Cross Examination

Q. (By Mr. Harrington) Mr. Ewart, did Brown work for you or did he work for a man named Dobbs?

A. He worked fore me, Dobbs also worked for me.

Q. How do you pronounce that, Dobbs, D-o-b-b-s?

A. Dobbs, D-o-b-b-s.

Q. Was Brown working for Dobbs? What was Dobbs' position?

A. Dobbs was one of the—well, in our gang we have a man that takes the lead in a certain job. He is assigned to a certain job and I give him two or three men with him. Dobbs was one of these men.

Q. Dobbs was a lead man?

A. Not a lead man. He was something like, sort of a group leader.

Q. Were you the lead man or foreman?

A. No, I was a lead man.

Q. And Dobbs was under you? A. Yes.

Q. And Brown was under Dobbs? Is that the idea?

Q. Brown at that particular time was assigned to Dobbs, yes.

(Testimony of Fred Ewart.)

Q. And was he being transferred immediately under you? Is that what he objected to? [506]

A. No. Another job came and I had to transfer some other men to this particular one, and I took one away from Dobbs, because he could spare one man.

Q. Brown was the man you took? A. Yes.

Q. Who would he be under in the new job?

A. Under me.

Q. He would be directly under you rather than working under Dobbs? A. Yes.

Mr. Harrington: I see. I have no further questions.

Redirect Examination

Q. (By Mr. Riggs) Dobbs was under you too, wasn't he? A. Yes.

Q. When you sent three or four men to a certain job you appointed somebody as sort of a squad leader?

A. Yes. We generally do that because we have too many different jobs.

Q. So when you asked Brown to do something directly for you, you weren't transferring in any way from one department to another, or anything like that?

A. No. It was just a short job and we needed it. It had to be done.

Q. It had to be done in a hurry? A. Yes.

[507]

Mr. Riggs: That is all.

Trial Examiner Hektoen: Anything more?

(Testimony of Fred Ewart.)

Mr. Harrington: No further questions.

Trial Examiner Hektoen: That is all. Thank you, Mr. Ewart.

(Witness excused.)

Mr. Riggs: Mr. Waskey.

JOHN B. WASKEY

called as a witness by and on behalf of the Respondent, having been first duly sworn, was examined and testified as follows:

Direct Examination

Q. (By Mr. Riggs) Your full name and address, please?

A. John B. Waskey, 715 2nd Avenue, Chula Vista, California.

Q. Are you employed by Consolidated, and if so, in what capacity?

A. I am employed by Consolidated as general foreman of Department 38.

Q. What department is that?

A. That is the PB2-Y3 final assembly in plant No. 1.

Q. What was your position with Consolidated in July, 1940?

A. In July of 1940 I was supervisor of the wing department.

Q. At that time were you connected with Aircraft Lodge No. 1125? A. Yes, I was. [508]

(Testimony of John B. Waskey.)

Q. What was your position, if any?

A. I was president of Aircraft Lodge at that time.

Q. Did you have any other position?

A. I was also chairman of the shop committee.

Q. As chairman of the shop committee, how far did your jurisdiction extend at that time?

A. Well, at that time Consolidated was smaller, and the union was smaller, and the shop committee used to handle all the business, because we couldn't afford any business agents, so the shop committee did all the negotiating with the management.

Q. Now, do you recall the time that Arthur Fisher was discharged?

A. Yes, sir. [509]

Q. Where had he been working?

A. Fisher had been working in the sheet metal department at that time.

Q. Did you have anything to do with his discharge or know anything about it until after it happened?

A. The first thing I knew of Fisher's discharge was when the subject came up in the union meeting the week after the discharge occurred.

Q. Were you delegated to do anything about it?

A. The matter was referred to the shop committee to be handled, to see if we could have him reinstated, and I asked the management to set a date for a meeting to discuss his reinstatement.

Q. Was such a meeting held?

A. Yes. The meeting was held in Mr. Kelly's office. He handled the labor relations at that time.

(Testimony of John B. Waskey.)

Q. Who was present if you recall?

A. I believe Mr. Kelly and Mr. Frye for the company and Mr. Joe Brown was present and Mr. C. L. Bently, International Representative of Machinists and myself and Mr. Fisher, I believe, was there also.

Q. At that time were the reasons for the discharge of Mr. Fisher discussed?

A. Yes, sir, they were.

Q. What was stated in that regard and by whom, if you recall? [510]

A. The record of discharge was read, the termination sheet. I don't recall exactly what it said. I believe the substance of it was that Mr. Fisher was discharged for incompetence—wasn't able to handle the job.

In Mr. Kelly's statement of the case he brought up the fact that Mr. Fisher had been employed in the sheet department originally to operate punch presses. He was supposed to be an expert on die-setting and operating punch presses and he had been unable to get along with the leadman in that department and hadn't given satisfaction there, so he had been transferred to some other department—transferred to some other section of the department. He hadn't been satisfactory there and they discharged him.

Mr. Kelly, as I recall it, brought in a bag full of parts that had been run on a punch press, a joggling job, and asked Fisher if he had done this job. Mr. Fisher said, "No" he hadn't done the job.

Mr. Kelly produced the traveler for the job and showed Mr. Fisher his name on it and then he brought

(Testimony of John B. Waskey.)

out the point that the parts were all ruined; that they had all been cracked. I don't know how many there were now. I imagine between 20 and 30 parts.

The principal discussion as to whether or not the discharge was justified hinged around that bag of parts.

Q. Was there a man named Raymond there? [511]

A. No, I don't believe Mr. Raymond was there.

Q. Was there anything said about Mr. Fisher telling people in his department how to do their jobs—interfering with their work?

A. I don't recall whether that was mentioned.

Q. Well, what happened as the result of the conference?

A. Mr. Kelly said that he would not rehire Mr. Fisher at that time, and as I recall it I told him that the case was very important to the union and we felt that Mr. Fisher had been discharged in an unorthodox *matter* and wanted him to further consider the case.

He said he would see me in a day or so. We adjourned at that time the formal hearing in the case.

Q. Well, what happened next?

A. About two days later Mr. Kelly came out where I was working in the shop and we talked about the case again at some length and I told him that the case was causing considerable difficulty in the union and it was a very difficult case to handle; whereas I wasn't going to present the matter of Fisher being unjustly discharged I would appreciate it if he would reconsider it and hire the man

(Testimony of John B. Waskey.)

just in order to make the situation a little better for the union.

After about ten minutes discussion he said:

“Okay, I will hire him and you will have to take care of him.” [512]

Q. What did you say to that?

A. I said: “All right, put him out here on the job and I will try to take care of him.”

Q. What did you mean, that you would try to take care of him?

A. Well, I meant that I would try to teach him the job and keep him on it and make a satisfactory workman out of him.

Q. Well, did you put Mr. Fisher after that on assembling landing gear drive trusses?

A. Well, he had been under my supervision for sometime before he got to that point. I had him on several other jobs first.

Q. Did you find him satisfactory on those other jobs?

A. No, sir, I did not.

Q. Why not?

A. Well, Mr. Fisher is a very difficult man to work with. I put him first on the PBY spars, a job that I thought he could handle very nicely, which consisted mainly of drilling holes.

After about two weeks on that he complained to me that he was a mechanic; he wanted more difficult work. I told him:

“Okay, Art, I will put you on a job and I will see if you are a mechanic.”

(Testimony of John B. Waskey.)

I put him on the installation of gas tank corners on these same spars, which is a fairly difficult job. It [513] requires careful workmanship.

I will say I had him on that for about a month. I came to the conclusion he couldn't do it, so then I put him in the bulkhead group under Mr. Mohr, and I told Mr. Mohr that I didn't think the man was a mechanic; that he was a difficult man to have in the department because he didn't get along with people. I told him to take his fixtures for what we called the drag links and drag trusses—two small fixtures and put them off in the end of the department and put Fisher up there where he would be working by himself on this assembly job.

That, I figured, he could do and that is where we put him. That was in Building 2.

Q. Did you put him working by himself so he could not interfere and gossip with other workers?

A. That is right. That was the principal reason for putting him by himself, so he would have no excuse to be bothering anybody else.

Q. Had he been bothering other workmen?

A. Well, I wouldn't say that he bothered them, but he kept them from their work by continually talking to them. He is a man that likes to talk.

Q. When you asked Mr. Mohr to take him in his outfit, did you tell him that you had gotten Fisher back upon your promise that you would look after him and try to see that he became a good workman? [514]

(Testimony of John B. Waskey.)

A. No, sir, I don't believe I made that statement.

Q. Do you remember what you did say?

A. As I recall it I told Mohr that this fellow was unsatisfactory on the spars and that he was hard to get along with and I wanted him put on this job where he would be by himself and I wanted Mohr to keep him working.

Q. Did Mr. Mohr ever come to you thereafter about Fisher?

A. Yes. Mr. Mohr came to me several times about Mr. Fisher. The first time was because Fisher wandered away from the job and Mohr and I talked with Fisher a number of times about that to impress on him that he had to stay on the job.

Then later, after the first of the year, when Fisher became shop committeeman, Mohr came to me quite a few times to the effect that Fisher was letting his committeeman's duties interfere with his work.

We talked to Fisher about that too several times.

Q. Can you give the substance of those conversations?

A. I think the substance was usually along the line that I knew what a committeeman's duties were, having been one, and Fisher knew what they were and I expected him to handle them in that way.

Q. Well, in what way do you mean?

A. Well, I expected him to let the employee with a grievance bring it to him rather than to go out and hunt up the grievances, and I expected Fisher

(Testimony of John B. Waskey.)

to stay on the job with the exception [515] of, perhaps, two or three instances, whenever Fisher left the department he would contact me and get permission to leave.

Q. Were there occasions when he left the department without contacting you to your knowledge?

A. Yes; there was one occasion when Fisher took a notion to go down to Jim Kelly's office and present him with an idea for a revolutionary clamp that would hold work in place.

I did not hear about that until the next day when Mr. Kelly came out and asked me why I let people bother him with that kind of stuff.

Q. Was there anything in the idea?

A. The idea was very poor.

Mr. Ryan: I object to that as a conclusion of the witness.

Trial Examiner Hektoen: Of course it is a conclusion.

Mr. Riggs: How can it help being a conclusion.

Trial Examiner Hektoen: I can't see.

Mr. Riggs: You are familiar with the work that Mr. Fisher suggested he could do or, you are familiar with the device that he suggested the company adopt?

The Witness: Yes, sir.

Q. (By Mr. Riggs): And you had been at that work for several years?

A. Yes, sir. [516]

(Testimony of John B. Waskey.)

Q. And in your opinion was this suggestion worth anything to the company?

A. No, sir. I think if I had been in Mr. Kelly's position I would have discharged him for wasting the company's time in making that kind of stuff.

Mr. Ryan: I object to the question and ask the answer be stricken from the record. It is immaterial and irrelevant and calls for an opinion and it is of no value in this case.

Trial Examiner Hektoen: I think it is rather valuable; it may stand.

Mr. Riggs: That is all.

Cross Examination

Q. (By Mr. Harrington) Mr. Waskey, at this conference that was held after Fisher was discharged in 1940, you said that the reason given for his discharge was that he couldn't get along with the leadmen in the punch press?

A. No, that was the reason for his being transferred to another group.

Q. He had been transferred from the punch press department to another group? A. Yes, sir.

Q. How long was that before his discharge?

A. I couldn't say accurately. My impression would be that it was probably a week or ten days before.

Q. A week or ten days before his discharge? [517]

A. (No answer)

Q. Were you present at a union meeting around July or June 1940, at which Mohr proposed a motion that men work 40 hours a week before they receive overtime?

(Testimony of John B. Waskey.)

I believe Walter Borg introduced that motion. I meant to say "Borg" instead of "Mohr"?

A. What is that date? 1940?

Q. Yes; I believe that is when it was.

A. I was surely present at the meeting then.

Q. You were?

A. (No answer)

Q. And at that meeting didn't you support Borg's motion?

A. No; I never supported such a motion.

Q. Did you make any statement regarding that motion?

A. I don't remember that motion, but I do remember that subject because it came up many times and I always opposed it.

Q. You opposed it? A. Yes, sir.

Q. Did you take any action in regard to it, or what did you do in opposing it?

A. Well, I spoke in opposition to the motion.

Q. When did you speak in opposition to it?

A. Well, as to the date I can't give you it, but that came up at a good many meetings.

Q. Did Fisher speak with respect to that motion?

[518]

A. I can't recall the particular motion that you are referring to because I don't remember it specifically—the one made by Walter Borg.

Any motion that came up in the Union Hall Fisher spoke on if he was there.

Q. Well, do you recall the motion made with respect to this 40-hour week?

(Testimony of John B. Waskey.)

A. I recall a number of motions on the subject but I don't recall one being made by Walter Borg.

Q. Do you recall one that was read off of a sheet of paper—on Consolidated stationery?

A. No, sir.

Q. What were Fisher's union duties that you said were interfering with his job?

A. Fisher was newly elected shop steward at that time.

Q. What duties was he engaged in that were interfering with his job?

A. Well, Mr. Mohr felt that Fisher left his work unnecessarily to contact various people around the department in an effort to find out if these people had any complaints or grievances to make.

Q. Did you work in the same department as Mohr did?

A. Yes. Mr. Mohr was a leadman in the section of the department that I was supervisor in.

Q. That was the wing department, was it not?

[519]

A. Yes, that was the wing department.

Q. And was that department moved from building 2 to building No. 4?

A. It was, yes.

Q. When was that moved?

A. As I recall it, I think that would have been in the spring of the year—about April.

Q. Of what year?

A. 1940, I believe.

Q. April 1940?

A. No, that would be April 1941.

(Testimony of John B. Waskey.)

Q. April 1941? A. Yes; 1941.

Mr. Harrington: We have no further questions.

Mr. Riggs: That is all I have.

Trial Examiner Hektoen: Just a second, Mr. Waskey. I would like to get a little bit more of your history at the plant. You are now a foreman?

The Witness: That is correct.

Trial Examiner Hektoen: When did you become a foreman?

The Witness: I became assistant foreman in June of 1941.

Trial Examiner Hektoen: And when did you become a full foreman, or when did you get your present title?

The Witness: General foreman?

Trial Examiner Hektoen: Yes. [520]

The Witness: Let me see, February of this year.

Trial Examiner Hektoen: I take it that you are no longer connected with the Union?

The Witness: That is correct. I took a withdrawal card.

Trial Examiner Hektoen: When did you cease your connection?

The Witness: I believe the card is dated February of this year.

Trial Examiner Hektoen: Well, were you active in the Union during the time you were assistant foreman?

The Witness: During the time I was assistant

(Testimony of John B. Waskey.)

foreman I attended an occasional meeting. I was not active.

Trial Examiner Hektoen: You did not take your usual active part?

The Witness: No, sir.

Trial Examiner Hektoen: That is all. Is there anything more ?

Mr. Riggs: That is all.

Mr. Harrington: That is all.

Trial Examiner Hektoen: Thank you, Mr. Waskey.

(Witness excused.)

Mr. Riggs: William Larson.

WILLIAM T. LARSON

a witness called by and on behalf of the Respondent, having been first duly sworn, was examined and testified as follows: [521]

Direct Examination

Q. (By Mr. Riggs) Please state your name?

A. William T. Larson.

Q. Are you employed by the Consolidated Aircraft Corporation and if so, what is your employment?

A. Department 38, leadman. Primary assembly—department 38, leadman.

Q. And where is department 38 situated?

A. Building 2, Home plant.

(Testimony of William T. Larson.)

Q. And who is your foreman in that department? A. Waskey.

Q. Mr. Waskey? A. Yes, sir.

Q. In the middle of 1941 where were you employed? A. In the middle?

Q. Yes.

A. I think we were in the parts plant then.

Q. Plant 2?

A. Just moving up or something—right around in there.

Q. Well, when did you first know Mr. Fisher?

A. Well, I was—I was working on a—I was working on Navy spars at the time and the first time I seen him I happened to look up and he was leaning on a spar for about 35 minutes, and I got to wondering who it was so I inquired.

Q. Was he placed under your supervision at any time? [522]

A. No; I was just a mechanic—at any time you say?

Q. Yes. A. Oh, yes, later.

Q. Well, when was that?

A. It was in—well, they give him to me from Bob Mohr. I was leadman. They give him to me—I think it was when we was in building 4. Maybe June, around June or July—June—just before we moved up to the parts plant—about a month before.

Q. Did I understand you to say that he was transferred to *your* from Mr. Mohr?

A. Yes, sir.

(Testimony of William T. Larson.)

Q. Did you have any talk with Mr. Mohr about him when he was transferred? A. No, sir.

Q. What was Mr. Fisher's job at that time?

A. When he was transferred to me?

Q. What did you put him to work at?

A. Stabilizers.

Q. What?

A. Stabilizer spars; you know what it is.

Q. No, I don't. I don't think the Examiner does. Explain a little more fully what that work means, will you, so a couple of lawyers can understand you?

A. A stabilizer spar is a longitudinal beam that carries the [523] stresses from the fuselage to the skin. In other words, it is what we put ribs in between the two spars and the skin is riveted to the ribs and that means it is transmitted to the fuselage because the whole thing fastens to the fuselage.

Q. Well, did you find Mr. Fisher a satisfactory workman at that job?

A. No, sir, did not.

Q. Why not? A. He wouldn't work.

Q. What?

A. He wouldn't work. I would have to shame him into working sometime.

Q. And was he on his job all the while or not?

A. No, sir, he was not.

Q. Did you have any talks with Mr. Fisher about this? A. Yes, sir.

(Testimony of William T. Larson.)

Q. Give us the substance of those talks, if you can?

A. Well, he would tell me he was a union committeeman and that he could run around when he felt like it—"who the heck was I anyway, to tell him what to do."

I hadn't been leadman very long and I wasn't any too darn smart, anyway, I guess.

Q. Is that what he said that you weren't any too smart?

Trial Examiner Hektoen: No, that is what the witness said about himself. [524]

The Witness: That is what I said about myself.

Q. (By Mr. Riggs) I mean you say that you were not too smart at that time anyway; is that it?

A. Yes, sir. [525]

Q. What did you tell Fisher to do?

A. Get to work.

Q. Did he follow your instructions?

A. Oh, maybe for a little bit.

Q. Tell us a little bit more about it, Mr. Larsen. I mean, did he leave his job?

A. Yes, quite frequently.

Q. How often, do you recall?

A. Well, I don't know how many times a day, or anything like that. He wasn't there any too much.

Q. How about the inspection of the work he was doing?

(Testimony of William T. Larson.)

A. After we got to the parts plant, I stuck him on a different jig. He got into his head he was going to run it a little different than the general routine, the customary standard of doing things.

Q. While he was down at the home plant, what was it he was failing to do in connection with these stabilizers?

A. Just wouldn't put out the work.

Q. Was there anything in connection with inspection about them?

A. No, he got along all right down there in inspection.

Q. Do you recall when he was working on an auxiliary spar?

A. Yes. I put him on auxiliary spars up at the parts plant, to see if I could get him some place where he wouldn't talk so much and stop people working, and it didn't do any good, [526] I guess.

Q. What happened with reference to the inspection of the auxiliary spars?

A. He got it into his head there he didn't need to have block inspection. You see, when a wood assembly fixture, where they make spars, they put the webs in, and all the details first, then the webs, and lay the rails in to form the contour itself, that is where the auxiliary spars come, from Station 6. And it requires that the different things be inspected before they are removed from the cable, to be sure they are accurate. He wouldn't do that.

(Testimony of William T. Larson.)

Q. Is that the rule of the department or the custom of the department?

A. It's right. It is standard practice.

Q. Did you say anything to him about it?

A. Yes, sir. I told him I was running the department and I would like to have him do things as I saw fit, and he didn't seem to think it was necessary, that inspection was necessary to—he was all the time complaining inspection was running him.

We always did get along with inspection fine before he started acting up.

Q. Did you ever talk with any of the men in your department about Fisher?

A. They did not like him at all. [527]

Q. What did they say?

Mr. Ryan: Unless he can tell us what they complained of, what was said, and in whose presence, we object.

Trial Examiner Hektoen: What would any person whom you can name, tell you?

The Witness: He come around antagonizing, see?

Trial Examiner Hektoen: First, tell us who said this to you.

The Witness: You see, one fellow—I'll tell you one thing. There was quite a few men coming in there, and they have all left now——

Trial Examiner Hektoen: If you can't name anybody, we do not want to hear about it.

The Witness: I cannot.

(Testimony of William T. Larson.)

Q. (By Mr. Riggs) Did you ever talk with Mr. Fisher at any time about his transfer?

A. I told him I didn't want him there.

Q. What did you do next about it?

A. I asked he be transferred.

Q. Was he transferred? A. No, sir.

Q. Did he stay in your department?

A. Yes, sir.

Q. Until when?

A. Until he was fired. [528]

Q. Did he ever come to you for permission to leave the department? A. He never did.

Q. Did he leave the department at times?

A. Yes, sir.

Q. How frequently?

A. Well, up in the parts plant he was gone quite frequently, I would say about——

Q. Can you state on the average how many times a day? How many times a week? Give us some idea of what you mean.

A. I would say a couple of times a day, once or two times a day.

Mr. Riggs: That is all.

Cross Examination

Q. (By Mr. Harrington) When was Fisher transferred or removed to under your supervision?

A. At the time when Bob Mohr——

Q. What time?

A. I don't know. Between, like I said before,

(Testimony of William T. Larson.)

in the middle of 1941, before we moved up to the parts plant, about a month before.

Q. How long before?

A. About a month before, a month and a half.

Q. Were you his lead man at all times up to his discharge, from that time on? [529]

A. Yes, sir. No, I beg to differ. He went over to Department 88 for a week, and they sent him back.

Q. When was that?

A. It was when that control service plant was first formed. He worked for Jack Warner one week.

Q. How long was that before his discharge?

A. I couldn't say for sure. About two or three months, I guess.

Q. About when?

A. Two or three months.

Q. Two or three months. Do you know what Fisher's rate of pay was when he was discharged?

A. I believe I do.

Q. What? A. \$1.06.

Q. \$1.06? A. Yes.

Q. What was it when he came under your supervision? A. I don't know.

Q. Had it increased during that time?

A. I don't know.

Q. What were the other men in the department getting?

A. Oh, 75, 80, around in there, mostly new men.

(Testimony of William T. Larson.)

Q. Then Fisher was one of the highest paid men in the department, was he? [530]

A. There was another, Ted Butole up there.

Q. What was he getting?

A. I don't know.

Q. Were he and Fisher two of the highest paid men in the department? A. I reckon.

Q. Were they the two highest paid men?

A. I reckon.

Q. You say that Fisher didn't spend much time at his work. Wasn't it a fact that there were union committeemen coming in to see him frequently?

A. There would be guys to come in to see him. They weren't union committeemen, standing around and talking.

Q. They were employees? A. Yes.

Q. How often did that happen?

A. About every day.

Q. Do you know about how many a day?

A. What?

Q. Do you know about how many men came in to talk each day to Fisher?

A. It averaged one day anyway.

Q. After you moved to the parts plant do you know what Fisher's union capacity was at that time?

A. He was shop committeeman. He said he was chairman of the [531] shop committeemen.

Q. And as chairman of the shop committeemen was he contacted by other committeemen, to your

(Testimony of William T. Larson.)

knowledge? Did you see other union committeemen contacting him?

A. They generally phoned him up. I was busy all day answering the phone.

Q. When they called him on the telephone did he have to go to answer the telephone? Where was it located?

A. In the middle of the mezzanine.

Q. How far from his place of work?

A. Just about five or six columns from Z-12; about seven columns, I guess; 170 feet.

Q. About 170 feet. How many men were working in the department at that time?

A. I think about 54.

Q. How many phone calls did he have a day?

A. At least one a day.

Q. How many men did you say were working in the department?

A. About 54. It would vary. We would bring in some and let them go.

Trial Examiner Hektoen: What did you say the number was?

The Witness: 54.

Trial Examiner Hektoen: How many did he say, Miss Reporter? [532]

The Reporter: 54.

Q. (By Mr. Harrington) How many men were employed in the home plant?

A. Plant No. 2?

Q. Yes. A. I don't know.

(Testimony of William T. Larson.)

Q. Can you approximate or estimate how many men were there?

A. I couldn't say. There was a thousand, anyway, thirteen or fourteen hundred.

Q. Wasn't Fisher the shop chairman for all those men?

A. I don't know. He said he was.

Q. He told you he was? A. Yes.

Mr. Harrington: No further questions.

Redirect Examination

Q. (By Mr. Riggs) How many men were under you as lead man?

A. It would vary from 17 on up to 32, some time, then one time I had 72.

Q. Were many of those men employees who had been recently hired?

A. A lot of new men, yes.

Q. Everybody back as far as October of 1941 had received a 13-cent increase and a 5-cent increase, hadn't they?

A. They would have to, yes.

Q. What? [533]

A. They would have to.

Q. You didn't mean to say that Mr. Fisher and this other man were the highest paid men in the department, did you?

A. I imagine they were.

Q. Didn't you mean the highest in that particular group?

(Testimony of William T. Larson.)

Mr. Harrington: I object to that as leading the witness.

The Witness: I beg your pardon?

Q. (By Mr. Riggs) The highest in your group?

Trial Examiner Hektoen: Just a minute. What is your objection?

Mr. Harrington: These men, he already stated, were the highest paid next to himself; now, he is trying to lead him to say something else about the men.

Trial Examiner Hektoen: It is a matter of proof. You mean in your department or group?

The Witness: In my group.

Mr. Riggs: That is all.

Recross Examination

Q. (By Mr. Harrington) No blanket increases were given this year? A. This year?

Q. Yes.

A. They were retroactive——

Q. When were they given? [534]

A. I think—you mean when were they given?

Q. Yes.

A. They were given July 9, 1941.

Q. When was the retroactive feature put into effect, on the blanket increases?

A. I believe it was retroactive July 9, wasn't it?

Q. July 9 of last year?

A. I believe so. I am not sure.

Q. Or of this year.

(Testimony of William T. Larson.)

A. It wasn't this year; it was last year.

Mr. Harrington: Last year. No further questions.

Trial Examiner Hektoen: I have no questions. That is all. Thank you.

(Witness excused.)

EDWARD L. RAYMOND

a witness called by and on behalf of the Respondent, having been first duly sworn, was examined and testified as follows:

Direct Examination

Q. (By Mr. Riggs) Your full name and address?

A. Edward L. Raymond, 2803 Copeman.

Q. Are you employed by Consolidated?

A. Yes, sir.

Q. When were you first employed?

A. July 19, 1929.

Q. 1929? [535] A. Yes, sir.

Q. You are one of the men that came from Buffalo to San Diego when they moved?

A. Yes, sir.

Q. What was your position in December of 1939?

A. I was lead man in the punch press department.

Q. How long had you been lead man?

A. Since 1935.

(Testimony of Edward L. Raymond.)

Q. Were you promoted in November of 1940?

A. Yes, sir.

Q. To what position? A. Supervisor.

Q. What is your present position?

A. General foreman of the sheet metal department, home plant.

Q. What?

A. General foreman of the sheet metal department, home plant.

Q. How many employees are there in that department?

A. About 800, a little over 800.

Q. Do you recall in December of 1939 Arthur J. Fisher became employed by the company?

A. Yes, sir. He started in my department when he first was hired.

Q. What was his work at that time? [536]

A. As a punch press operator.

Q. Was he directly under your supervision?

A. Directly.

Q. During his employment did you have any occasion or time to talk to Mr. Liegal about Mr. Fisher? A. On several occasions.

Q. Who was Mr. Liegal?

A. Mr. Liegal was our foreman of the sheet metal department.

Q. At that time? A. At that time.

Q. He is the man who testified here a few moments ago? A. Yes, sir.

Q. What did you say to Mr. Liegal about Mr. Fisher?

(Testimony of Edward L. Raymond.)

A. That I was very dissatisfied with the man, that I did not want him in my department.

Q. What was the basis of your complaints?

A. His workmanship, and his attitude, plus minus production.

Q. Was there anything said about his staying in the department? A. In what respect?

Q. Did you have any occasion to make a complaint about his leaving the department without your knowledge?

A. He broke a die one day, he broke a die, an expensive [537] die, and he took it upon himself to take it into the tool room to have it repaired. He did not contact me; he did not contact the foreman; and he did not even contact the foreman in the tool room. He took it directly to a man on the bench and asked that man to repair that die.

Q. What happened with reference to it?

A. In reference to it the foreman from the tool room contacted my foreman, and my foreman jumped me about it, and I didn't know a thing about it at that time. Then we found out he miscalculated somewhere or other in putting the piece in the press, and he broke the die, and he didn't want to tell me about it, or anything like that; he just took it over there.

Q. He didn't tell you about it?

A. He did not tell me about it.

Q. Were there any other occasions when he left his department?

(Testimony of Edward L. Raymond.)

A. I cannot recollect to a certain extent, but he was doing it, doing an awful lot of talking, going into the machine shop to the fellows. In other words, when he first come over, he was always talking against the union, because, the way I understand it, he had trouble back in Detroit, when he was over there. That's why he got out of there, to come to California to be away from unions.

So, at that time the union was more or less his full talk, [538] or all his sayings.

Q. Did he interfere with other men in your department in their work?

A. He had been generally talking on and off and trying to interrupt the other fellows from working, because he was the type of man that always loved to talk.

Mr. Harrington: I object to this general type of testimony. Can't we particularize as to the people and name the dates, or when the conversations occurred?

Mr. Riggs: I can't particularize any more than you did with some of your witnesses.

Q. (Mr. Riggs) Can you tell me any occasions when you saw this "love of talk" of his, that you can recall who he was talking to, or what happened?

A. I can go ahead and specify Bob Grant; his was talking to him; Howard Davis, he was talking to him; D. C. Gale. That's all I can recall just at the moment.

(Testimony of Edward L. Raymond.)

Q. Were all the men in your department at the time?

A. They were in my department at the time.

Q. Do you know what the subject of those discussions were?

A. When I found out, they were union talks.

Trial Examiner Hektoen: When you found out?

The Witness: When I found out.

Q. (By Mr. Riggs) How did you find out?

A. Because the boys came up and told me about it, he was [539] bothering them from working, and when I went to bawl them out they said: Well, that man is always coming and talking to us.

So I had to go and jump Mr. Fisher.

Q. Did you reprimand Mr. Fisher for talking on subjects outside the company's business at that time?

A. I did. I told him and told him, that I wouldn't tolerate that kind of talk around my department, and I told him the best thing is to go down to Mr. Liegal and see if he could ransfer out of my department, because I didn't want him with me.

Q. Did you ask Liegal to transfer him?

A. Yes, on numerous occasions.

Q. Did Mr. Liegal finally transfer him?

A. He finally transferred him.

Q. And since that time——

A. He transferred him to Walter Borg in the accounting department.

(Testimony of Edward L. Raymond.)

Q. Since that time you have had no contacts with Mr. Fisher?

A. I have had no contact with Mr. Fisher.

Mr. Riggs: That is all.

Redirect Examination

Q. (By Mr. Harrington) What was Fisher's rate of pay when he started in your department? [540]

A. I couldn't recall, but I never had access to the records in my capacity as lead man, so I couldn't say. But I could just hazard a guess.

Q. What would you guess?

A. About 60 cents an hour.

Q. How long was he in that department?

A. Approximately five months.

Q. Do you know what his rate of pay was when he left? A. No, sir.

Q. Had it increased in that time, to your knowledge? A. I couldn't say.

Q. Didn't you have anything to do with the rates of pay, or recommending increases?

A. I only recommended increases, but I had no—I could only go up to the foreman and recommend this man for an increase, but that's about all.

Q. Had you recommended Fisher for any increases? A. No, sir.

Mr. Harrington: I have no further questions.

Mr. Riggs: That is all.

(Witness excused.)

Mr. Riggs: Mr. Liegal.

HENRY J. LIEGAL

recalled as a witness by and on behalf of the Respondent, having been previously duly sworn, resumed the stand, and [541] testified further as follows:

Direct Examination (Continued)

Trial Examiner Hektoen: You were previously sworn.

The Witness: Yes.

Q. (By Mr. Riggs) You previously testified you are the day superintendent of plant No. 2 now. Is that correct? A. At the present time.

Q. What was your position December, 1939?

A. Foreman of the sheet metal.

Q. What did you—when did you first meet Mr. Arthur Fisher?

A. I think he hired out in December, 1939.

Q. Did he come under your department and supervision at that time? A. Yes, sir.

Q. What was his position?

A. Punch press operator.

Q. Did you know him personally at that time?

A. He was hired directly at Detroit by Mr. Waterbury.

Trial Examiner Hektoen: In other words, you didn't know him personally?

The Witness: No.

Mr. Riggs: I didn't hear that.

Trial Examiner Hektoen: I asked him if he knew him personally and he said no. [542]

(Testimony of Henry J. Liegal.)

Q. (By Mr. Riggs) Yes; you didn't know him personally?

A. I didn't know him personally.

Q. When did you first come to hear anything about Mr. Fisher?

A. Well, I started getting reports from Mr. Raymond about a man walking around the department doing various things and also, we would get quite a little scrap. In other words, his job was mostly juggling extrusions.

Q. What does that mean?

A. Bronze sections, made by U. S. Aluminum, such as angles to hold half sections, which is so many of them I couldn't say.

Q. After Mr. Raymond had talked with you about Mr. Fisher's damage, were there any occasions when you talked with Mr. Fisher yourself personally?

A. I have stopped and talked with him I would say a dozen times and reprimanded him personally, myself, for both poor workmanship, and also for standing around and talking to other men when he should be on his machine.

He came to me well recommended as a setup man at 75 cents an hour, and the rate of pay was 60 cents at the time, and for some reason or other, I gave him a break. In other words, I put him——

Q. Put your hand down. I can't hear you.

A. (Continuing) And let him continue on working, which [543] I shouldn't have done. But I felt

(Testimony of Henry J. Liegal.)

a fellow coming 3,000 miles from Detroit, I didn't want to fire him. So we let it go along up until Mr. Raymond demanded—he asked me so often to get rid of the man, so I finally transferred him to Mr. Borg in the accounting department, which was under my jurisdiction too. Mr. Borg had the cowl-ing department.

Q. What does the cowl-ing department do?

A. Cowling around motors. [544]

Q. And what did Mr. Borg set him to work at, if you know?

A. Mr. Borg was the lead man on manufacturing the cowl-ing.

Q. And after he had been transferred over to Mr. Borg's jurisdiction he was still in your department?

A. He was still in my department.

Q. Did you have any talks with Mr. Borg about him after he had been transferred?

A. Well, the reason for the transfer to a certain extent, was he thought he was getting insufficient money and the tops on punch presses at the time was around 75 cent for setup men, 60 or 65 cents for operators, so he came to me claiming that he wasn't getting ahead far enough and I told him just why he wasn't and that, in my opinion, I ought to discharge him but I still was going to give him another chance, and I told him, in fact I gave him a chance to pick out the department that he wanted to go in, and he suggested going into the

(Testimony of Henry J. Liegal.)

cowling department, which I went ahead—it wasn't a transfer. All I had to do was to take the man from him and send him over there, only he would be under a different lead man.

Q. Now, after he got over there——

A. He was put on making cowl rings, and I was watching him to a certain extent, because I figured I had trouble with him in the punch press department and I would just notice [545] his production.

I found out after checking up with Borg that he made three cowl rings in approximately ten days, which should have been made in about one day.

Q. He made three cowl rings in how many days?

A. About ten days.

Q. That should have been made in how many?

A. I would say I could make them in one day.

Q. Did Mr. Borg talk to you about Mr. Fisher after he got over there?

A. He did. After he was out there for awhile he came to me and complained. He says, "I don't want Fisher."

Q. After that did you personally have any talks with Mr. Fisher with reference to his work?

A. I did. I told him——

Q. What did you say and what did he say?

A. I told him that he wasn't producing sufficiently and that the amount of work that he accomplished in ten days was not more than one day's work.

(Testimony of Henry J. Liegal.)

Q. Did Mr. Borg complain to you at any time about his leaving his job while he was there?

A. Well, that was the general complaint that he had. I have gotten complaints from practically everybody. In fact, Mr. Raymond and Mr. Borg and I knew when I transferred him that eventually I would have to fire the man. [546]

Trial Examiner Hektoen: Wait a minute, just answer the question.

Mr. Riggs: Strike that out.

Trial Examiner Hektoen: Did Borg complain about it to you?

The Witness: Borg complained about it.

Trial Examiner Hektoen: All right, let it go at that.

Q. (By Mr. Riggs) What finally happened to Mr. Fisher?

A. I just told Mr. Borg that I was going to discharge him, which I done.

Q. And he was discharged on or about July 26, 1940?

A. It was around the month of July.

Q. The month of July, 1940, upon your direction? A. That is right.

Q. And what was the reason that you gave for his discharge?

A. Incompetence, I think. I am not sure. I haven't seen that record since I made it out and I wouldn't swear to it, but it was similar to that.

Mr. Riggs: That is all.

(Testimony of Henry J. Liegal.)

Cross Examination

Q. (By Mr. Harrington) When you transferred Fisher to Borg did Fisher receive more money under Borg than he had been receiving before the transfer? A. No, he did not.

Q. Did I understand you to say that Borg's department paid [547] more money than the one he had been in?

A. It would pay more money than the punch press department. It is rated a little higher. It is more skillful.

Q. But it didn't pay more to Fisher when he went in there, you say?

A. Well, he was transferred over there with not having very much experience on that type of work and we couldn't put him right in there and give him more money.

Q. Did he receive more money when he was there awhile?

A. No, he didn't last long enough for that. He didn't stay much more than ten days.

Q. When did the blanket increases—do you know anything of Fisher's increases during the time he worked for the company?

A. I don't think he got an increase from me, or any time that he was working for me.

Trial Examiner Hektoen: Off the record a minute.

(Discussion off the record.)

Trial Examiner Hektoen: On the record.

(Testimony of Henry J. Liegal.)

Q. (By Mr. Harrington) Who recommended Fisher when he came to work?

A. I think Mr. Waterbury hired him in the—in Detroit, Michigan.

Q. Who is Mr. Waterbury?

A. He is personnel manager or was at the time. [548]

Q. Of Consolidated?

A. He still is the personnel manager, I think, of Plant 1.

Trial Examiner Hektoen: Is there anything more of Mr. Liegal?

Mr. Harrison: No, I have no further questions.

Mr. Riggs: I will offer in evidence at this time the employment record of Mr. A. J. Fisher, clock number 34195, from December 18, 1939 to January 1, 1942, and ask leave to substitute a photostat copy.

Mr. Harrington: Photostat both sides.

Mr. Riggs: There is no sense in having the back side photostated. There is nothing on it. Will you please mark this, Mr. Reporter?

(The document referred to was marked as Respondent's Exhibit 6 for identification.)

Mr. Riggs: I offer it in evidence.

Mr. Harrington: No objection.

Trial Examiner Hektoen: It is admitted without objection.

(The document heretofore marked for identification as Respondent's Exhibit No. 6 was received in evidence.)

(Testimony of Henry J. Liegal.)

RESPONDENTS' EXHIBIT No. 6

Form 189—F&S

Original—

Tool Crib—

Consolidated Aircraft Corporation
San Diego, California

TERMINATION OF EMPLOYMENT

Name Fisher, A. J. Dept. No. 69. Clock No. 34195

Position and Class Assembler 691231

Date Effective 1-1-42

Time 9:30 A.M.

While employed in this department the conduct
and services of this employee were:

	Excellent	Good	Fair
Conduct	[]	[]	[<input checked="" type="checkbox"/>]
Ability	[]	[]	[<input checked="" type="checkbox"/>]
Production	[]	[]	[<input checked="" type="checkbox"/>]
O. K. for Rehire	Yes [<input checked="" type="checkbox"/>]		
in Your Dept.	No []		
Other Type Work	Yes []		
Recommended	No []		

Signed MINIAH

Foreman Dept. 69

Signed J. W. WATERBURY

Personnel Dept.

Reason for leaving Disch.-Disobeying Company
rules.

Tools cleared*

WM. EKDAHL

Foreman Tool Crib

*List any missing tools on back of this form.

EMPLOYMENT 1

Consolidated Aircraft Jackson Fisher
 San Diego, California Middle Last

Address Phone

Address Phone

Address Phone

Date of Birth 7-5-02r Brown Eyes Blue

Place of Birth Northtonality American

Citizen? Yes x No Date of Entry

Date 1st Papers

Male x Female

Other Dependents W

Owens own home Room and Board

How long in this State SS 381-09-3936

Fraternal affiliations

Church

Work done in what Department Certificate No.

Grade Sch. 7th Graduate Yes

High Sch. Graduate

Special Courses 4 Years

College Graduate

Special Courses

Trade Sch. Graduate

Special Courses

Employer Date Why Left

Fisher Body Corp 3 hr. Came West

New No work

Respondent's Exhibit No. 6—(Continued)

EMPLOYMENT RECORD
Consolidated Aircraft Corporation
San Diego, Calif.

Name	Arthur Jackson Fisher			Phone	
First	Middle	Last		Phone	
Address	3670 Keating St.			Phone	
Address				Phone	
Address				Phone	
Date of Birth	7-5-02	Age	37	Date when	65 1967
Place of Birth	North Braddock	State	Pa.	Height	5'11"
Citizen?	Yes x	No		Country	U. S. A.
Proof	Aff. by father, Arthur J. Fisher, Sr.			Port of Entry	Has been recorded
Date 1st Papers		Date 2nd Papers		Where Issued	
Male x	Female	Single	Married x	Widowed	Divorced
Other Dependents	Wife—Gatha			No. Dependent Children	2
Owens own home	Rents x			Lives with Parents	Rooms
How long in this State	2 months	In what Counties	Los Angeles		
Fraternel affiliations				Union affiliations	
Church	Contract for hire made in State of Calif.			Work done in State of	Calif.
Work done in what Dist.	San Diego	Reg. with Pub. Emp. Office	In what District		
				Certificate No.	

EDUCATIONAL HISTORY

Grade Sch.	7th	City	N. Braddock	State	Pa.	Graduate	Yes
High Sch.		City		State		Graduate	
Special Courses	4 Years Gen. Motors Foreman Training						
College		City		State		Graduate	
Special Courses							
Trade Sch.		City		State		Graduate	
Special Courses							

PREVIOUS EMPLOYMENT HISTORY

Employer	Address	Position	From	To	Rate	Why Left
Fisher Body Corp.	Detroit, Mich.	Die Set Layout	1928	1939	1.15 hr.	Came West
New No work						

0-4-17 (1940)

19-24602 CONSOLIDATED AIRCRAFT EMPLOYMENT HISTORY

Date Started	Department	Clock No.	Position	Type of Work	Rate	Class	Terminated	Remarks
12-30 12-18-39	Sheet Metal	1861	Punch Press Operator	Manual	.75	432102	12-23-39	Trans. night shift
N 12-24-39	Sheet Metal	1861	Punch Press Operator	Manual	.80	432102	2-11-40	Trans. day shift
2-12-40	Sheet Metal	1861	Punch Press Operator	Manual	.75	432102	5-10-40	Clock No. change
5-11-40	Sheet Metal	8173	Punch Press Operator	Manual	.75	432102	6-7-40	Rate & class adj.
6-8-40	Sheet Metal	8173	Punch Press Operator	Manual	.78	432101	7-26-40	Laid off—unqualified
8-14-40	Wing	11242	Assembler	Manual	.78	461232	12-27-40	Clock No. chg.
12-28-40	Wing	19-24602	Assembler	Manual	.78	191232	1-31-41	Rate change
2-1-41	Wing	19-24602	Assembler	Manual	.83	191231	4-11-41	Rate Review
NCB 4-12-41	Wing	19-24602	Assembler	Manual	.88	191231	6-13-41	Labor Agreement
EDW 6-14-41	Wing	19-24602	Assembler	Manual	.93	191231	8-1-41	Transferred Parts Plant
MLS 8-2-41	Wing	69-4096	Assembler	Manual	.93	691231	8-29-41	Clock number change
DD 8-30-41	Wing	69-34195	Assembler	Manual	.93	681231	10-24-41	Labor Agreement
ghs 10-25-41	Wing	69-34195	Assembler	Manual	1.06	691231	1-1-42	Disc. Disobeyed Co. Rules EB

Foreman
Employees Signature

Supervisor of Personnel

Arthur J. Fisher

Respondent's Exhibit No. 6—(Continued)

REMARKS

Relationship to Employer	None	Relatives in Co. Employ?	Yes	No x
	Name of Relatives			Relationship

12-18-39 Finger Prints Taken
 3-25-41 Cash advance of \$50.00.
 Hospitalization of wife.
 eb 1-29-42 Quest from Civil Service, San Diego

ELIGIBILITY FOR BENEFITS

Federal Oil Age Insurance?	Yes	No	Calif. Unemployment Insurance?	Yes	No
Ineligible for Benefits—Old Age			Unemployment	Reason	

Waiting Period

Probationary Period

IN CASE OF ACCIDENT NOTIFY

Name	Address	Phone
Name	Address	Phone
Name	Address	Phone
Group Insurance	Yes	Policy No. 13523 8-14-40 Amount 4000.00
	BENEFICIARY	Add'l \$1,000 4-30-41 2000 Total
Name Gatha Fisher	Relationship	Wife Phone
Street No. 1260 Second Ave.	City	San Diego, State - Calif.
Name	Relationship	Phone
Street No.	City	State
Name	Relationship	Phone
Street No.	City	State

PHYSICAL CONDITION

Right Eye	Left Eye	Wears Glasses	No
Teeth			
Right Ear	Left Ear	Heart	
Right Hand	Left Hand		
Right Arm	Left Arm		
Right Limb	Left Limb		
Right Foot	Left Foot		
Right Lung	Left Lung		
Hernia	No	Truss Worn	No
Hemorrhoids	No	Subject to Flits	No
Vaccinations	Yes		

SERIOUS ILLNESS None

OPERATIONS None

COMPENSATION RECORD

Date	Company	Cause	Amount
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(Testimony of Henry J. Liegal.)

Trial Examiner Hektoen: Is there anything more of Mr. Liegal?

Mr. Harrington: No.

Mr. Riggs: No, sir. [549]

Mr. Harrington: Mr. Examiner, I don't know whether it is clear on the record, but we are having the front of it photostated.

Trial Examiner Hektoen: In other words, you are having the significant portion thereof photostated and you agree that they are to be photostated by whom?

Mr. Harrington: Respondent is going to have it photostated.

Trial Examiner Hektoen: All right, next witness.

Mr. Riggs: I call attention to the rates of pay that Mr. Fisher received. He went to work December 16, 1939 at 75 cents an hour. He was raised to 80 cents.

Trial Examiner Hektoen: Doesn't the exhibit speak for itself, Mr. Riggs?

Mr. Riggs: The last increase of 13 cents was on October 25, 1941, which raised him to 93 cents and then \$1.06 from 83 cents.

Trial Examiner Hektoen: All of which appears on your exhibit, does it not?

Mr. Riggs: I was pointing it out to you.

Trial Examiner Hektoen: Thank you, but I usually read them.

(Witness excused.)

Mr. Riggs: Mr. Stark. [550]

THEODORE STARK,

a witness called by and on behalf of the Respondent, being first duly sworn, was examined and testified as follows:

Direct Examination

Q. (By Mr. Riggs) Your full name and address?

A. Theodore (Ted) Stark; 3536 Arizona Avenue.

Q. Are you employed by Consolidated?

A. Yes, sir.

Q. What is your position?

A. Foreman, general wood mill foreman.

Q. General foreman of the wood mill?

A. Yes, sir.

Q. And was that your position in December, 1941?

A. I was foreman, I wasn't general foreman at the time. I was foreman.

Q. Now, you are general foreman and then you were foreman?

A. I was foreman and made general foreman now.

Q. Where is the wood mill?

A. It is next to building 3, on the north end—was at that time.

Q. In the Parts Plant? A. Parts Plant.

Q. Plant No. 2? A. Plant No. 2.

Q. Is the wood mill the farthest north of any building [551] of the company? A. Yes, sir.

(Testimony of Theodore Stark.)

Q. Except for the power plant which is alongside of it? A. Yes, sir.

Q. And how great an open yard is there between the wood mill and the next building on the south? A. Yes, sir.

Q. How great a space is there?

A. I would judge, oh, three hundred feet or four hundred feet from the building No. 3.

Q. 100 to 150 yards? A. Yes, sir.

Q. How many stories are there in the wood mill?

A. Two stories.

Q. Do you know Arthur J. Fisher?

A. Yes, sir.

Q. When did you first know him?

A. I never had the privilege of meeting the man, but I did meet him after December 13th.

Q. Had you ever seen him before?

A. I seen him in Plant 1 when I was in Plant 1 on occasions, at times.

Q. And did you know him by name?

A. No, sir.

Q. Now, what happened on December 13th?

[552]

A. On December 13th I was—I had orders to paint out—blackout the windows on the outside of the building by Mr. Maloney, and at that time Mr. Newman was taken in charge to get us started on the blackout, so at that time I was negotiating between Mr. Maloney and Mr. Newman to blacken out the place, to get material up there for my gang and from the paint shop.

(Testimony of Theodore Stark.)

Q. Prior to this time none of the glass in the plant had been painted black, had it?

A. No, sir.

Q. And the walls of the plant were white, were they not? A. Yes, sir.

Q. Now, do you remember that about December 11th there were petitions circulated around the employees on the night shift of Consolidated plant No. 2? A. No, sir.

Q. You don't remember that? A. No, sir.

Q. Well, do you remember that there had been a blackout on the night of December 10th?

A. Yes, sir.

Q. Tell us about that. When did it begin and how long did it last?

A. That I don't remember; how long it was.

Q. Well, during the blackout the men lost several hours [553] of work, did they not?

A. (No answer.)

Q. Do you know whether they were paid for their time during the blackout?

A. No, I don't. They were paid as far as I can remember.

Q. Were there any lights on in the plant at all during the blackout? A. That I don't recall.

Q. Weren't you there? A. No, sir.

Q. You mean you weren't there on December 11th? A. No, sir.

Q. All right. Well, anyway, Mr. Newman had given you orders to get the wood mill blacked out, had he not?

(Testimony of Theodore Stark.)

A. He gave me orders to get started on painting building No. 3, the corner of building 3. At that time we started on the northwest corner.

Q. And were you painting the windows black?

A. Yes, sir.

Q. And were you painting the glass in the roof black? A. Yes, sir.

Q. Now, what happened on December 13, 1941, with reference to Mr. Fisher?

A. I told my men that they had to work over-time that night, to take their time out for eats and work that night on the [554] blackout on all the windows, and I got every man that I could in my department that could spray and in the meantime I had to go to Mr. Newman's office to get more painters from the paint shop.

Mr. Griffith got his men started and I had to go back to the office and order more pots from out of Los Angeles.

Q. And this was Saturday night, December 13th?

A. Yes, sir.

Q. About what time?

A. About 2:30 in the afternoon, close to 3 o'clock.

Q. In the afternoon instead of the night?

A. Yes, sir.

Q. And when did you or where did you first see Mr. Fisher?

A. I did not see Mr. Fisher until after 4 o'clock.

Q. Where was he then?

A. He was just going home at that time.

(Testimony of Theodore Stark.)

Q. Didn't you see him in the wood mill at any time on that day?

A. No, sir, I didn't see him personally; no, sir.

Q. Was it reported to you that Mr. Fisher had been in your department? A. Yes, sir.

Q. Who reported that to you?

A. Several of my men that are not with me now. They reported to me and said that they couldn't work Sunday; Mr. Fisher [555] said they could not work on Sunday, so I immediately went back to Mr. Newman and told Mr. Newman that my men went home and would not show up for Sunday so we would be short-handed.

Q. Had you ever had a union shop committee-man interfering in your department before?

A. No, sir. I had Mr. Young who was shop steward.

Mr. Riggs: That is all.

Cross Examination

Q. (By Mr. Harrington) Did you see Fisher in your department? A. No, sir.

Q. Talking to the men? A. No, sir.

Mr. Harrington: I have no further questions.

Mr. Riggs: That is all.

Trial Examiner Hektoen: You are excused.

(Witness excused.)

Mr. Riggs: Mr. Mineah.

LAWRENCE E. MINEAH

a witness called by and on behalf of the Respondent, having been first duly sworn, was examined and testified as follows:

Direct Examination

Q. (By Mr. Riggs) Your address?

A. 3745 Villa Terrace.

Q. Are you employed by Consolidated? [556]

A. Yes, sir.

Q. What is your present position?

A. Night factory superintendent, plant 2.

Q. What was your position in August 1941?

A. In August 1941 I became general foreman of the wing department, department 69.

Q. Plant 2?

A. Well, I transferred from plant 1 to plant 2 during that month.

Q. And how many men did you have under your supervision at that time?

A. I can only estimate it.

Q. Well, estimate it?

A. I would say or estimate between 8 and 900 on the day shift.

Q. Well, were there a great number or small number of operations carried on in the Army wing department?

A. There were a good many of them.

Q. How many different operations are there all together?

A. I wouldn't even estimate it.

(Testimony of Lawrence E. Mineah.)

Q. Well, did you give any instructions to any of your subordinates regarding the issuing of passes to employees who wished to leave the department?

A. As a rule on employees leaving a department, it was our rule that they must obtain a signed slip from either myself or one of my assistants, which they turned over to the clerk [557] and the clerk, on the basis of the signed slip, issued them a roving badge which was their authority to leave the department.

Q. When was that rule put in force?

A. That was a rule that was in force in general in the parts plant when Mr. Newman took over—when it opened.

Q. In the summer of 1941?

A. That is right.

Q. Did that apply to union men wishing to leave the department as well as non-union men?

A. That applied to everybody except salaried personnel.

Q. Did it apply to union shop committeemen and union stewards?

A. Yes, sir.

Q. When did Arthur J. Fisher first come under your supervision?

A. I took him over with the department.

Q. He was in the department?

A. He was in the department when I took it over in August.

Q. Did you have any conversations with Mr. Fisher with reference to transacting union business

(Testimony of Lawrence E. Mineah.)

and if so, state where it took place and when, if you can, and the substance of the conversations?

A. I recall talking to him two or three times about it. I can't recall the exact conversations but the substance of it [558] each time was that he had left the department—it had been reported to me that he had left the department without permission and I had him down at my desk and told him that that was very much against the rules and that any further violations would mean his discharge.

Q. Did you tell him that he must procure your written consent to present to the clerk?

A. Either my consent or the consent of one of my assistants.

Q. And that that consent must be in writing or oral? A. In writing.

Q. Now, thereafter did you ever have any—can you tell when those conversations took place?

A. No, I couldn't. I remember the conversations but I can't recall the dates.

Q. Did they take place on more than one occasion? A. Yes.

Q. How many times?

A. I can't recall—at least twice.

Q. Now, do you recall an occasion at any time when Mr. Fisher ever made or filed a grievance about your telling him that he must stay in his department unless he got a rover's button through your permission?

A. He objected to being forced to get a rover's badge to leave the department, on the basis of the

(Testimony of Lawrence E. Mineah.)

fact he couldn't find the foreman at the time he wanted to leave and he felt [559] he should be able to leave on a minute's notice, and if he couldn't find a foreman to issue a written permit, it was interfering with his duties as a committeeman. He was quite put out about that.

Mr. Harrington: I object to that.

Q. (By Mr. Riggs) Did he so state——

Trial Examiner Hektoen: Read the last question, Mr. Reporter?

(Question read.)

The Witness: I am a little confused over the definition of "grievance" there.

Trial Examiner Hektoen: Did he file a grievance?

The Witness: Do you mean did he come down personally and make out a written grievance?

Trial Examiner Hektoen: File a written grievance?

The Witness: No.

Trial Examiner Hektoen: Then strike the previous answer. [560]

Q. There has been presented here in evidence, Mr. Mineah, as Board's Exhibit 16, a penciled grievance form signed by Arthur J. Fisher, without date. I show that to you and ask you if you ever saw it before, and ask you to read it.

A. Yes, I recall it now. I have seen it.

Q. What?

A. I have seen it. It was presented to me.

(Testimony of Lawrence E. Mineah.)

Q. You have seen it before?

A. I don't think it was presented to me. I think it was presented to Mr. Newman and came back to me through that channel.

Q. This grievance sheet says: "Upon one occasion you told Mr. Fisher to stay on the job from now on and that he said: What's wrong now? I notified your clerk I was going to see Mr. Newman and Mr. Larimore with the committeeman from Department 65. I have been allowed this time. I think you will find out I was allowed this in the Home Plant by Mr. Kelly.

Then, he states: You said, "I don't give a God damn what Kelly allowed you. You are not at the Home Plant now and if you do it again I will fire you."

Then he said: "Now, Min, don't get hot, cool off and we can talk this over."

Mineah said: I am hot and will not cool off and if you do this again I will fire you.

Did you ever have a conversation to that effect with [561] Mr. Fisher?

A. To that general effect, yes.

Q. What was it? Was it in that particular language?

A. I don't recall swearing, but——

Q. Did you mention that you were running the plant instead of Mr. Kelly?

A. I mentioned the fact we were no longer under Mr. Kelly's supervision.

(Testimony of Lawrence E. Mineah.)

Q. Did you tell Mr. Fisher he must stay on the job? A. Yes, sir.

Q. And get your permission in order to leave?

A. That is right.

Q. Have you repeated all the conversation?

A. I can't remember the exact wording of the conversation. That is in substance what I told him.

Q. Do you know when that conversation took place? A. I couldn't tell you.

Q. This doesn't refresh your recollection as to any time?

A. No, it doesn't. The thing is: I recall having that and reading it at one time and it didn't come to me from Fisher, I am quite sure. It came from Newman, I think.

Q. Had you been informed at any time that Fisher had a rover's badge in his possession?

A. I was so informed.

Q. Did you ever talk to Fisher about that? [562]

A. I wasn't told about it until after he disposed of it, or somebody had to take it away from him.

Mr. Harrington: I object to that.

Trial Examiner Hektoen: Yes. It will be stricken.

Q. (By Mr. Riggs) Did you ever have any conversation with him about it? A. No.

Q. Were there any occasions when Mr. Fisher asked you for leave to attend meetings with Mr. Larimore at Mr. Larimore's office? A. Yes.

Q. Did you give permission on such occasions?

(Testimony of Lawrence E. Mineah.)

A. Yes.

Q. Did you ever check up to ascertain whether Mr. Fisher had gone to Mr. Larimore's office?

A. I never made a formal check.

Q. What happened on January 1, 1942?

A. Well, that was the date Mr. Newman fired Mr. Fisher.

Q. I want you to tell us—I will pursue it by question and answer. On that date did Mr. Fisher at any time ask you for permission to leave his department?

A. No, sir.

Q. At any time did you ever give him written permission to leave his department on that date?

A. No, sir. [563]

Q. Do you know Mr. Elmer Gaulbeck?

A. Yes, sir.

Q. What was his position at the time?

A. He was supervisor.

Q. Had you given Mr. Gaulbeck the authority to give the shop committeeman any permission to leave the department?

A. No, sir.

Q. Did you see Mr. Newman on that day?

A. Yes, sir.

Q. Where did you see him?

A. I probably saw him several times that day.

Q. When did you see him first?

A. I can't recall.

Q. Did you have any conversation with Mr. Newman about Mr. Fisher on that day?

A. Yes.

Q. What was that?

(Testimony of Lawrence E. Mineah.)

A. He asked me if I or any of my assistants had given Mr. Fisher permission to leave the department.

Q. What was said?

A. I told him: No.

Q. Did you talk with Mr. Gaulbeck that day?

A. Yes, sir.

Q. What was the subject of that conversation?

A. I asked him if he had issued Fisher permission to leave [564] the department.

Q. What was his reply?

A. His reply was: No.

Q. Were you present when Mr. Fisher was discharged? A. Yes, sir.

Q. What happened then?

A. Mr. Newman sent one of my clerks upstairs where Fisher worked and asked him to come down to my office. He asked Fisher if he had left the department that day, which he had.

He asked him if he had a rover's badge and Fisher said he did have. He asked him how he got it and he told us he got it from the clerk. He then asked him if he had written permission from me or any of my assistants to get the badge from the clerk, and Fisher said: No. And we fired him.

Q. What was the name of the clerk Mr. Fisher said he got the badge from? A. Pickett.

Q. Is he with the company at the present time?

A. No.

Q. How old a man was he?

(Testimony of Lawrence E. Mineah.)

A. Well, he was a schoolboy, just at a guess, about twenty-one or twenty-two possibly.

Q. Did he leave the company to go back to college or school? A. Yes, sir.

Q. Did you speak to Mr. Pickett about the man? [565]

A. Yes. I investigated and found that Pickett had issued the rover's badge without permission from anyone, or authority, and I reprimanded him very severely.

Q. Did he say what Fisher said to him in applying for the badge?

Mr. Harrington: I object to that: Reprimanded him very severely.

Trial Examiner Hektoen. Do you object to the question pending?

Mr. Ryan: Yes, we object to that as hearsay and being too remote.

Trial Examiner Hektoen: What do you say, Mr. Riggs?

Mr. Riggs: I don't believe it is too remote. It is part of the *res gestae*, but maybe it is hearsay, and probably is. But I have always understood this tribunal was not bound by the particular rules of evidence.

Trial Examiner Hektoen: We would like to have a general idea where Pickett is. Is he at Stanford, or some place else?

The Witness: I don't know. He told us when he left, on the termination slip he said he was go-

(Testimony of Lawrence E. Mineah.)

ing to Arizona, to some school, and I believe it was Phoenix. But I am not certain on the school.

Trial Examiner Hektoen: Was Mr. Pickett a schoolboy working during the summer vacation?

The Witness: I couldn't say. Apparently he was, be- [566] cause he quit to go back to school.

Trial Examiner Hektoen: You don't know where he is now?

The Witness: I have no idea.

Mr. Riggs: I would like to ask the witness what Mr. Pickett told him with reference to the affair, what Mr. Fisher said when he applied for the badge.

The Witness: I can only tell you in substance.

Trial Examiner Hektoen: Wait a minute. I am inclined to receive it, but, of course, you know the way it is with such testimony.

Mr. Riggs: I would like to have it in for what it is worth, part of the general story.

Trial Examiner Hektoen: All right.

The Witness: You want to know what Pickett told me?

Mr. Riggs: Yes.

The Witness: He told me that he gave a badge to Fisher because Fisher said he had a verbal O.K. from Gaulbeck to have the badge.

Q. (By Mr. Riggs) Have you ever had any other shop committeemen under you in your department? A. Several.

Q. Have you ever had any difficulties with any of them about leaving the department?

(Testimony of Lawrence E. Mineah.)

A. No. [567]

Q. The shop committeemen that have been in your department procured leave when they left the department on union business or other business from you or your assistants? A. Yes.

Q. Have you ever had to take any disciplinary action against any other union shop committeemen in connection with this business of leaving the departments on union business?

A. I don't recall any.

Q. Can you give me any testimony as to the efficiency of Mr. Fisher as a workman while in your department?

Mr. Ryan: I object to that.

Trial Examiner Hektoen: Let us go off the record.

(Discussion off the record.)

Trial Examiner Hektoen: On the record. Read the question.

(Question read.)

Mr. Riggs: I will withdraw that question.

Trial Examiner Hektoen: Very good. Off the record.

(Discussion off the record.)

Trial Examiner Hektoen: On the record. Anything else?

Cross Examination

Q. (By Mr. Harrington) Who are your assistants? A. Now?

(Testimony of Lawrence E. Mineah.)

Q. No, who were your assistants from August of 1941 to January, 1942, in that period of time?

[568]

A. You want me to name them all?

Q. How many have you had? You testified that permission to leave the department must be gotten from you or one of your assistants.

A. Well, I had William Miller and a Claude Burcell. They have changed supervisors so fast in the department it bothers me to recall. There were about six of them; Gaulbeck was a supervisor.

Q. Gaulbeck was one?

A. And——

Q. Well, how long did Fisher work in your department?

A. I couldn't tell you. He was there when I took it over.

Q. After you took it over how long did he continue to work approximately?

A. I took it over in August and he was discharged on the 1st of January.

Q. In that length of time did he receive raises in your department?

Trial Examiner Hektoen: The record speaks for itself, does it not?

The Witness: He must have; that was when we had the blanket increases.

Mr. Harrington: I haven't had an opportunity to examine it, Mr. Examiner.

Trial Examiner Hektoen: It is in here and it is

(Testimony of Lawrence E. Mineah.)

better [569] evidence than Mr. Mineah could give us.

Mr. Harrington: May I see that a moment?

Q. (By Mr. Harrington) Were there different rates of pay for the night shift than there were for the day shift? Was there a bonus for the night shift? A. Oh, yes.

Q. What was that bonus?

A. 8 cents per hour.

Q. If a man was on the night shift he would receive a bonus of 8 cents an hour. If he went back to the day shift would that bonus be taken away?

A. Yes, sir.

Mr. Harrington: I am not sure, Mr. Examiner, whether these——

The Witness: Those are all day rates.

Q. (By Mr. Harrington) Are they all day rates?

A. I can tell you by examining the sheet.

Trial Examiner Hektoen: Off the record.

(Discussion off the record.)

Trial Examiner Hektoen: On the record.

Q. By Mr. Harrington) On Respondent's Exhibit 6, will you tell us which is the night rate and which is the day rate, which of those figures represents the night rate under the column where it says "Rate"?

A. The second one from the top, 80 cents, is the night rate. [570]

(Testimony of Lawrence E. Mineah.)

Q. That represents the night rate. What is the rate immediately following it?

A. 75 cents.

Q. What does that represent?

A. Day rate.

Q. Is that changed from 80 to 75 cents, does that represent the differential, the bonus for the night shift? A. Yes.

Trial Examiner Hektoen: Furthermore, that one night rate you testified about is the only one that appears on the personnel record. Is that right?

The Witness: That is right.

Trial Examiner Hektoen: It is identified by "N" at the left hand side of the tabulation?

The Witness: Yes.

Mr. Harrington: A red "N"?

The Witness: Pardon me. Is that a complete record? Both of those sheets?

Trial Examiner Hektoen: One is a copy.

The Witness: One is a copy. I see.

Mr. Riggs: Wait a minute. Let us get this straight. Isn't there another night rate here on 4-12-41, where it says: Switch assembly, manual 88, labor agreement, and the next one underneath is 6-14-41: Assembly, 8-1-41 transfer Parts Plant. That was on the night rate when he was [571] transferred?

A. No, that is the day rate, I am pretty sure.

Q. Was there a difference in rate between the Home Plant and the Parts Plant?

A. Perhaps I didn't read that carefully enough.

(Testimony of Lawrence E. Mineah.)

Trial Examiner Hektoen: Read it very carefully, because this is rather important. I want your best idea. If you don't know, or don't feel qualified to testify, we will get somebody else.

The Witness: I have looked at enough of them.

Trial Examiner Hektoen: All right.

The Witness: No, that's the day rate.

Trial Examiner Hektoen: Anything more?

Redirect Examination

Q. (By Mr. Riggs) Is there a difference in the rate between the——

A. You are not reading this correctly. It says from 88 to 93, labor agreement. Then it says: 93 to 93 transfer Parts Department.

Q. He got the same rate when he was transferred to the Parts Department? A. Yes.

Q. An increase from 88 to 93 was the 5 cent increase that everybody got? A. Yes. [572]

Q. And from 93 to \$1.06 was the 13 cent raise everybody got?

A. That is right.

Trial Examiner Hektoen: Anything more of Mr. Mineah?

Mr. Harrington: Yes.

Recross Examination

Q. (By Mr. Harrington) Did you have any shop committee chairman in your department?

A. Committee chairmen?

Q. Yes.

A. Fisher was chairman of the committee.

(Testimony of Lawrence E. Mineah.)

Q. Did you have anyone other than Fisher?

A. No.

Mr. Harrington: I have no further questions.

Trial Examiner Hektoen: Just one second. Attached to Respondent's Exhibit 6 is a slip called "Termination of Employment," covering Fisher, in which it is checked: O.K. for hire in your department. Yes. Signed: Mineah.

Does that have any special significance that wouldn't seem obvious?

The Witness: Not that I know of.

Trial Examiner Hektoen: It means what it says, in other words?

The Witness: Yes.

Trial Examiner Hektoen: Very good. That is all. [573]

Redirect Examination

Q. (By Mr. Riggs) When was that signed, do you know?

A. At the time he was discharged.

Q. What did it mean?

A. It means what it says.

Q. He is O. K. for rehiring in your department?

A. I put it on there. I can't deny it.

Q. After he was discharged was the matter taken up with the various foremen of the Parts Plant to see whether they would take Mr. Fisher back in their department?

A. Not that I know of.

Q. Was it ever taken up with you?

(Testimony of Lawrence E. Mineah.)

A. No.

Mr. Riggs: That is all.

(Witness excused.)

Trial Examiner Hektoen: We will recess until 10:00 o'clock a. m.

(Whereupon, at 5:15 o'clock p. m., September 3, 1942, an adjournment was taken until 10:00 o'clock a. m., Thursday, September 4, 1942.) [574]

Conference Room,
Chamber of Commerce Building,
San Diego, California,
Friday, September 4, 1942 [575]

Trial Examiner Hektoen: The hearing will be in order.

It is stipulated by and between all parties hereto that line 14 of page 192 of the record be amended to read as follows:

"A. From December 18, 1939 until January 1, 1942."

You may proceed, Mr. Riggs.

Mr. Riggs: Mr. Watt.

ROBERT WATT

a witness called by and on behalf of the Respondent, having been first duly sworn, was examined and testified as follows:

Direct Examination

Q. (By Mr. Riggs) What is your name and address?

A. Robert Watt, 9131 Madison Avenue.

Q. In December 1941, were you employed by Consolidated? A. Yes, sir.

Q. What was your position?

A. Foreman, general foreman in the jigs and fixtures.

Q. That was in plant 2?

A. Plant 1 and 2—in plant 2, yes.

Q. Where was your office?

A. In the north end of building 3 in plant 2.

Q. Do you remember the 13th day of December 1941? A. Well, yes.

Q. Well, do you remember a day when you saw Mr. Fisher [577] in your department?

A. Yes, sir.

Q. Do you remember whether that was the 13th of December?

A. No, sir; I couldn't say. I seen him in my department more than one day.

Q. What did you do about it?

A. Well, he had been around my department once or twice—in fact a few times in my department, even though I had my own stewards there.

One day I did call up Mr. Newman and asked

(Testimony of Robert Watt.)

him why he couldn't be kept out of my department or why he was in my department.

Q. Was it the customary practice for union committeemen entering your department to tell you so first?

A. My committeemen and steward do that all the time. Anytime they want to talk or go anywhere they always come and ask me.

Mr. Riggs: That is all.

Cross Examination

Q. (By Mr. Harrington) Do you know what Fisher's official position in the union was in December 1941?

A. I don't know.

Q. Do you know that he was chairman of the shop stewards?

A. No, I can't say I do. He had a lot to do with it but I can't exactly tell you truthfully what his position was. [578]

Q. Who is the committeeman in your department? A. Mr. Thomas.

Q. Does he leave the department on union business?

A. He sometimes has to go down to the different buildings but he never goes without coming and asking my permission.

Mr. Harrington: I have no further questions.

Trial Examiner Hektoen: That is all, Mr. Watt.

(Witness excused.)

Mr. Riggs: Mr. Borg.

WALTER R. BORG

a witness called by and on behalf of the Respondent, having been first duly sworn, was examined and testified as follows:

Direct Examination

Mr. Riggs: Mr. Examiner, I think it was suggested yesterday by yourself that the previous discharge of Mr. Fisher and his reemployment was not the basis of any charge of discrimination against the union in this case.

Mr. Borg is the witness upon that phase of the case. If the attorneys for the Labor Board will stipulate that the previous discharge of Mr. Fisher was not due to any union activities, that is, not made the basis of any charge of discrimination against the union, some of this testimony may be eliminated.

Mr. Harrington: It is not the basis of any 8(3) charge, but it does go as evidence to show the company's attitude [579] toward Fisher because of his union activities.

Q. (By Mr. Riggs) All right, Mr. Borg, will you give your address?

A. 4672 Campo Drive.

Trial Examiner Hektoen: What is your first name, Mr. Borg?

The Witness: Walter R.

(Testimony of Walter R. Borg.)

Q. (By Mr. Riggs) Are you employed by Consolidated? A. I am.

Q. And what is your position?

A. I am a foreman in final assembly at the present time.

Q. What department is that? A. 40.

Q. What?

A. Department 40.

Q. What was your position in 1940?

A. I was a leadman for about 7 months, 7 or 8 months of that year.

Q. Was that in the cawling department?

A. That was the cawling department; that was the cawling department of the sheet metal department.

Q. Who was your foreman?

A. Mr. Liegal; Henry Liegal.

Q. Was Mr. Fisher at any time placed in your department? A. He was. [580]

Q. Do you remember when that was?

A. It was around the middle of the year 1940, about, oh, I would say June.

Q. At any time did you have any talks with Mr. Fisher about his work?

A. Oh, yes, several times.

Q. Will you give us the substance of those conversations and fix the time, if you can?

A. Well, all I told him was he had to get going, that is all. That was about the substance of it. His workmanship in the sheet metal end wasn't

(Testimony of Walter R. Borg.)

holding up to the rest of the group of men who he was working with.

Q. Did Mr. Liegal talk with you about Mr. Fisher's work?

A. Yes, several times.

Q. Did you report to him your comments upon Mr. Fisher's work?

A. Yes, sir, I did.

Q. Was Mr. Fisher discharged by you?

A. No; he was discharged by Mr. Liegal.

Q. Was his discharge upon your recommendation?

A. I didn't recommend he be discharged, but I recommended he be taken out of the department.

Q. Now, at that time did you have any office in the Union? A. Yes, I did.

Q. What was it? [581]

A. Committeeman.

Q. Was Mr. Fisher a Union officer?

A. No, he was not.

Q. Now, it has been stated here, Mr. Borg, that Mr. Fisher was discharged because of discrimination against the Union and it has also been stated that at one time you proposed a resolution in Union meetings about working more than 40-hours a week, on some statement that was made by Mr. Fleet.

Do you recall anything in that regard?

A. I do not.

Q. Did you ever act as the proponent of resolutions in a Union meeting to have the men work 40-hours a week?

(Testimony of Walter R. Borg.)

A. Not to my knowledge.

Q. Did Mr. Fisher's Union membership have anything to do with his discharge?

Mr. Ryan: I object. That is calling for a conclusion.

Trial Examiner Hektoen: Sustained.

Mr. Riggs: That is all. [582]

Cross Examination

Q. (By Mr. Harrington) How long was Fisher under your supervision?

A. Oh, about a month.

Q. Do you reprimand any of the men under you from time to time? A. I do.

Mr. Harrington: No further questions.

Trial Examiner Hektoen: That is all, Mr. Borg, thank you.

(Witness excused.)

ELMER GAHLBECK

called as a witness by and on behalf of the Respondent, having been first duly sworn, was examined and testified as follows:

Direct Examination

Q. (By Mr. Riggs) Your name?

A. Elmer Gahlbeck.

Q. And your address?

A. 2176 Guizot Street.

(Testimony of Elmer Gahlbeck.)

Q. Are you employed by Consolidated, and if so, in what capacity?

A. Yes, sir, I am assistant foreman at the present time in the wing department, Department 69.

Q. Is that located in Plant No. 2? [583]

A. Parts plant; that is right.

Q. What was your position from October, 1941 to January, 1942? A. Supervisor.

Q. Were you supervisor in the same department?

A. Yes, sir.

Q. And is the present location of your office the same as it was then? A. Yes, sir.

Q. You have been promoted from supervisor to—— A. Assistant foreman.

Q. Do you recall when Mr. Fisher became one of the men under your supervision in the wing department?

A. He was already there when I took over the supervisor's job.

Q. In October, 1941 he was already there?

A. Yes, sir.

Q. Shortly after you became supervisor did anything cause you to take up something about Mr. Fisher with Mr. Mineah?

A. I inquired of Mineah a couple of times where Fisher has gone and he went out on different occasions and like that. I inquired about that. I seen he wasn't on the job so I inquired of Mr. Mineah.

Q. What did Mr. Mineah say?

A. I don't recall at the present time. [584]

Q. Did Mr. Mineah state to you you could have

(Testimony of Elmer Gahlbeck.)

authority to give permission to leave the department when that was desired?

A. Did who have the authority?

Q. Did Mr. Mineah tell you that you could give permission to leave the department?

A. No, sir, he did not. I could not authorize any authority to issue any buttons out at all.

Q. Did he state you didn't have authority to issue such permission?

A. He just says I didn't have authority to issue out permits for Rover's buttons, as they called them at that time.

Q. What was the practice in your department with reference to issuance of Rover's buttons?

A. They had to see the foreman, and if I am not mistaken, I believe the assistant foreman, but the supervisor did not have the authority; at least, I didn't have it.

Q. On January 1, 1942 did you give Mr. Fisher permission to obtain a Rover's button to leave his department?

A. No, sir.

Q. Did you have any talk with him about Rover's buttons on that day?

A. Not that day. I didn't have time to.

Q. Did you on any other day have occasion to talk to him about a Rover's button? [585]

A. All the time I asked him if he ever had a Rover's button he would say "Yes," and I would ask him where he got it from because he didn't get them through me.

(Testimony of Elmer Gahlbeck.)

Q. At any time after the first of January were you called to the office of Mr. Newman?

A. I was.

Q. Who else was there?

A. Mr. Mineah and some of the clerks.

Q. Do you know what clerks were there?

A. I believe the gentleman that issued the "r" buttons.

Q. Do you remember his name?

A. Prichard?

Trial Examiner Hektoen: Pickett?

The Witness: Pickett, that is right.

Q. (By Mr. Riggs) What happened in Mr. Newman's office?

A. We weren't in Mr. Newman's office, we were in Mineah's office.

Q. Mr. Newman came to Mr. Mineah's office?

A. That is right.

Q. You were there, and Mr. Pickett was there, and was Mr. Fisher there?

A. He was, afterwards; they called him down.

Q. What happened when you reported to Mr. Mineah's office?

A. You mean what happened down there?

Q. Yes. [586]

A. Mr. Newman only asked me if I had authorized permission for Mr. Fisher to go out, and I said I did not, I had no authority to do so.

Q. What happened after Mr. Fisher got there?

A. They questioned him, and there was a few words said between Mr. Newman and Mr. Fisher.

(Testimony of Elmer Gahlbeck.)

Trial Examiner Hektoen: Those are what we want to hear.

The Witness: I don't know what they were, but they were talking back and forth, and that was all I heard. After that I heard he was discharged.

Q. (By Mr. Riggs) Did anyone ask Mr. Fisher while you were there whether he obtained permission from the foreman to leave his department?

A. I believe they did.

Q. Tell us what you remember with reference to it.

A. You mean the whole story, or just down there?

Q. Just down there. What happened down there while Mr. Fisher was present?

A. So far as I can recall, they had Mr. Fisher come down from the second mezzanine to the office, and I believe they questioned him what had taken place, where he had got the button, and he told them.

Q. What did he say?

A. He says, "The clerk gave it to me." [587]

Q. What else was said?

A. He said he was doing his duty in the outside there, whatever he was doing, and that was as far as he went right there; and, of course, they discharged him. I heard Mr. Newman say to make out his time. That's as far as it was.

Q. Have you given us all the conversation you remember in Mr. Newman's office?

A. Yes. There wasn't but a very, very little. I was only in there just a few minutes, and that's all there was to it.

(Testimony of Elmer Gahlbeck.)

Cross Examination

Q. (By Mr. Harrington) Did Mr. Fisher mention anything to you that day about men working out in the rain without raincoats?

A. He started to tell me that, when he came back, and just about that time——

Q. When he came back from where?

A. From where he was, and I don't know where he was coming from.

Trial Examiner Hektoen: How did you know he was coming back?

The Witness: He just come up there. I was sitting there, and Mr. Fisher was telling me he got to wrangling and about that time that happened, I had orders to come down to the main desk.

Q. (By Mr. Harrington) At any time before that day did he [588] say anything about the men working out in the rain without raincoats?

A. No, not that I recall.

Q. Did you say anything to Fisher about leaving the department without permission before, that day?

A. No, this happened early in the morning.

Q. How long had Fisher been under you?

A. Since October, when I took over the supervisory job, until January 1.

Mr. Harrington: I have no further questions.

Trial Examiner Hektoen: You are sure he hadn't talked to you about this raincoat business, or the janitors that morning?

The Witness: Not that I recall. He started to tell me about it, just about the time the clerk came from

(Testimony of Elmer Gahlbeck.)

upstairs and stated I was wanted at the desk immediately.

Trial Examiner Hektoen: That is all, thank you.

(Witness excused.) [589]

Mr. Riggs: Mr. Kimball.

DONALD L. KIMBALL

a witness called by and on behalf of the Respondent, having been first duly sworn, was examined and testified as follows:

Direct Examination

Q. (By Mr. Riggs) Where do you live?

A. 3743 Bancroft Street.

Q. Mr. Kimball, are you employed by Consolidated? A. I am.

Q. When did you first go to work for Consolidated? A. December 1936.

Q. And what was your job at that time?

A. At that time I was a department clerk.

Q. What is your position now?

A. I am a leadman in the Army wing department.

Q. What was your employment around the 1st of January 1942?

A. Chief clerk in the wing department.

Q. And who was the foreman of that department? A. Mr. L. Mineah.

Q. Was the previous witness, Mr. Gahlbeck, the supervisor in that department also?

(Testimony of Donald L. Kimball.)

A. Yes, sir, he was.

Q. Who was the assistant foreman?

A. There were several assistant foremen. You mean at that time? [590]

Q. Yes.

A. In that particular section Mr. Gahlbeck's assistant foreman, I think, was Mr. Laing.

Q. How do you spell that?

A. L-a-i-n-g. There were several other assistant foremen in the department.

Q. Is that a large department?

A. Very large. It is the largest, I believe.

Q. How many men were in the department around the 1st of January?

A. On the day shift there must have been 1500.

Q. And the night shift?

A. Well, altogether about 2700 in the whole department.

Q. What can you say as to whether there was a rule in the department about clerks giving *our* rover's badges?

A. We had definite orders to issue badges only to those who presented us with a written request for us to give the badge, from the assistant foreman or foreman, and that is what we did.

Q. Now, who gave you those instructions?

A. Mr. Mineah.

Q. Were there occasions when Mr. Fisher presented written permits to obtain a rover's badge to you?

A. Yes, sir, there was.

(Testimony of Donald L. Kimball.)

Q. Can you state how often he presented written authority [591] for a badge?

A. Well, it varied. Sometimes he would want to go out twice a day and maybe at another time only once a day and maybe there would be days he wouldn't go out

Q. How long was Mr. Fisher in the same department with you?

A. Let me see. I don't remember the dates when he came to work in the wing department but it must have been in the neighborhood of 2 years that he worked in the department with me.

Q. And during the year 1941 he had been a union shop chairman?

A. I knew he was a committeeman or chairman. He had a lot of union business.

Q. Was it during throughout the year 1941 that from time to time he would submit a written permit for a rover's badge?

A. I wouldn't say throughout the year.

Q. Well, all I want to get at, Mr. Kimball, is——

A. He did, yes.

Q. If you can give us an idea of how often he presented a written permit to obtain a rover's badge while he was in the same department with you?

A. Well, I thought I covered that pretty good the other time. It was quite often near the latter part of 1941—it got more often than before—quite often. We used to comment on how much time he was going in and out of the departments. [592]

(Testimony of Donald L. Kimball.)

Q. Did you ever issue him a rover's badge without his presenting written permission?

A. No, sir. At times he asked me and I would refer him back to the foreman or assistant foreman.

Q. Did you ever ask him if he had a rover's badge in his possession?

A. I never asked him. He showed me a rover's badge that he had that I had no record of him having.

Q. Did you ask him where he got it?

A. I asked him how he got it and he said:

"Wouldn't you like to know."

Q. Had that badge been issued by your department?

A. Well, as I said I didn't issue it and I had no record of him having it. Now, there are other ways he could have gotten it, I imagine—finding it.

Q. But you don't know how he got it?

A. That is right.

Q. Did you issue a rover's badge to him on January 1st, 1942?

A. I did not.

Q. Do you know who did issue him a badge?

A. A fellow that was working for me named Pickett—Donald Pickett.

Q. What has become of Mr. Donald Pickett?

A. Well, a short time after we had this trouble, why, he quit and went to Arizona—he said to continue school. [593]

Q. How old a man was he?

A. He was about 20 or 21. I don't recall his exact age, but he was a fairly young fellow.

(Testimony of Donald L. Kimball.)

Q. Did you talk with Mr. Pickett at any time as to how he came to issue the rover's badge?

A. Well, he had already received a talking to by both Newman and Powell—I mean Newman and Mineah and I didn't have any reason to talk to him about it, but I did just ask a question and he told me he thought it was all right to let him have it.

Mr. Riggs: That is all.

Cross Examination

Q. (By Mr. Harrington) How long was this rule in effect?

Mr. Riggs: Just a minute. Are you a member of the Union?

The Witness: Yes, sir, I am.

Mr. Riggs: Were you at the time this thing happened?

The Witness: No, sir.

Mr. Riggs: That is all.

Q. (By Mr. Harrington) How long was this rule in effect that clerks could give badges only to those who had written authority?

A. Well, it was in effect very strenuously ever since we transferred up to the parts plant. Now, that was in—I can't exactly recall the date, and before that, that was [594] when we started using the rover's badge—before that they had the same sort of a system only they issued a paper slip as passes or rovers.

Q. Did you see Fisher every time before he left the department? A. You say every time?

Q. Yes.

(Testimony of Donald L. Kimball.)

A. I wasn't there all the time. I naturally wouldn't see him every time that he left the department. I have seen him go quite a few times.

Q. Did you know that he always had written authority before he left?

Mr. Riggs: I object to that.

Trial Examiner Hektoen: If he didn't see him go every time he wouldn't know that.

Q. (By Mr. Harrington) That badge that Fisher showed you, you didn't know he had and you don't know how he got that badge, do you?

A. No, sir, I don't.

Q. And you stated that Pickett gave Fisher the badge on January 1st? A. Yes, sir, he did.

Mr. Harrington: We have no further questions.

Redirect Examination

Q. (By Mr. Riggs) The badge that Pickett gave him on [595] January 1st wasn't the badge that Mr. Fisher had showed you previously, sometime prior to that, was it? A. No, sir.

Q. Do you have a rover's badge on now?

A. I have one of the new type. That is different than the ones we had. The ones we had were red with a black R on it but about the same size.

Trial Examiner Hektoen: You were the chief clerk there and Pickett was your assistant, I take it.

The Witness: He was one of them.

Trial Examiner Hektoen: How many assistants did you have?

The Witness: I had about ten at that time.

(Testimony of Donald L. Kimball.)

Trial Examiner Hektoen: Were they all able to issue badges?

The Witness: Well, Pickett was the one that was more or less—had the most or the bulk of the work at that time. He was stationed at a place—at a certain place and handled most of them.

In the event he was gone myself or two or three other fellows could do it. There wasn't anything hard about it, just the responsibility of knowing and seeing they were properly issued.

Trial Examiner Hektoen: So the process was divided among four or five fellows? [596]

The Witness: Yes, sir.

Trial Examiner Hektoen: That is all.

Q. (By Mr. Riggs) What form did the written permission take? Was it just a slip of paper with "okay" on it by the foreman? A. Yes, sir.

Q. Or was anything printed on it?

A. At one time we had printed forms and we ran out of them and used any kind of paper. It was just:

"Please permit so and so, number so and so to go" wherever he had permission to go to, and then we gave him the rover's badge. That could be verbal if the foreman was standing there.

Of course if he was standing there he wouldn't go to work and write a paper. He would say:

"Give Mr. so and so a rover's badge," and we would do it.

Q. That is, if the foreman was near enough to

(Testimony of Donald L. Kimball.)

you go give the oral orders you would take those oral orders?

A. Yes, sir; but if the man came up—for instance if a man would come up and say:

“Mr. Mineah says I can leave the department,” that wasn’t good enough.

He would have to have it verbally right there or in writing.

Q. Did those instructions that you received in that regard apply to Mr. Fisher as well as anybody else in the department? [597] A. Yes, sir.

Mr. Riggs: That is all.

Trial Examiner Hektoen: You are excused; thank you.

(Witness excused)

Mr Riggs: May we go off the record.

Trial Examiner Hektoen: Off the record.

(Discussion off the record)

Trial Examiner Hektoen: On the record.

Mr. Riggs: I would like to offer in evidence a copy of the company’s rule book, issued March 25, 1940, as respondent’s Exhibit 7.

(The document above referred to was thereupon marked as Respondent’s Exhibit No. 7 for identification.)

Trial Examiner Hektoen: Are those rules in effect now?

Mr. Riggs: Yes.

Trial Examiner Hektoen: Without change?

Mr. Riggs: Yes.

Mr. Harrington: We have no objection to this.

Trial Examiner Hektoen: Respondent's Exhibit No. 7 is admitted.

(The document above referred to, heretofore marked as Respondent's Exhibit No. 7 for identification was thereupon received in evidence.)

RESPONDENT'S EXHIBIT No. 7

Excerpt from Consolidated Aircraft Corporation's book, "Rules for Employees", issued March 25, 1940:

"2. Periods of Work.

* * *

(b) No employee is permitted to leave his department during working hours without the authority of his foreman."

Trial Examiner Hektoen: In the absence of further witnesses, available this morning, we are in adjournment [598] until 2 o'clock p.m.

(Whereupon, at 11 o'clock a.m., the hearing adjourned until 2 o'clock p.m., the same day.)
[599]

After Recess

Trial Examiner Hektoen: We will be in order.

Mr. Riggs: Mr. Shannon.

EVERETT M. SHANNON

recalled as a witness by and on behalf of the National Labor Relations Board, having been previously duly sworn, resumed the stand and further testified as follows:

Cross Examination (Continued)

Trial Examiner Hektoen: You testified here yesterday, Mr. Shannon.

The Witness: Yes, sir.

Q. (By Mr. Riggs) Mr. Shannon, on page 374 of the record yesterday you said you would come here tomorrow and bring the names of the union men who had been recommended for an increase by the foremen in your department? A No, I did not.

Q. What did you say you would bring?

A. I asked before I left that day if I was to bring them, and they said: No, that you had not told me to bring them. I could bring them, yes. I can furnish any amount of those.

Q. I asked you on page 374:

"Mr. Shannon, listen to me. You are under oath. Will you swear that there was any case specifically that you can bring here tomorrow and show the Examiner where the foreman had recommended a union man for an increase that you did not, [600] on behalf of the union, ask the shop committeeman to demand more than that amount for that man?"

And your answer was:

"Yes, sir; I can bring some."

A. Yes, sir, I did.

Q. I will ask you if you can go and——

(Testimony of Everett M. Shannon.)

A. You did not ask me to bring them. You asked me if I could, and I said I could.

Q. I want the particulars. Therefore, I will ask you to go and get those and bring them back.

Mr. Harrington: Mr. Examiner, I think that is immaterial.

The Witness: He didn't tell me to.

Trial Examiner Hektoen: Just a minute, please. Why?

Mr. Harrington: The issue here isn't as to who Mr. Shannon recommended for increases and who he didn't recommend for increases.

Mr. Riggs: The issue here is that union members were discriminated against by the company, and I told you yesterday I intended to prove exactly to the contrary, that it was the union men in these wage review cases brought up which were not discriminated against; they were non-union men, and this witness has gone far toward it——

Mr. Harrington: That isn't an issue in this proceeding.

Trial Examiner Hektoen: Off the record. [601]

(Discussion off the record.)

Trial Examiner Hektoen: On the record.

You say you can get such information, Mr. Shannon?

The Witness: Yes, sir; I believe he said, "Could I," and I could. But he didn't say: Will you?

Trial Examiner Hektoen: I agree with that. Can you, at this time?

The Witness: I can.

Trial Examiner Hektoen: You are excused, then.

Mr. Riggs: Off the record.

Trial Examiner Hektoen: Off the record.

(Discussion off the record.)

Trial Examiner Hektoen: On the record.

Mr. Riggs: Mr. Perry.

L. A. PERRY

recalled as a witness by and on behalf of the National Labor Relations Board, having been previously duly sworn, was examined and testified as follows:

Cross Examination (Continued)

Trial Examiner Hektoen: You have previously been sworn, Mr. Perry.

The Witness: No.

Trial Examiner Hektoen: Yes. You testified here before.

The Witness: Yes. [602]

Trial Examiner Hektoen: Be seated.

Q. (By Mr. Riggs) Mr. Perry, when did you say you became business agent of the union?

A. The first of January, 1942.

Q. In addition to being a business agent with your union, you are also a columnist for the newspaper, are you not?

A. I do considerable writing, yes.

Q. I want to show you a column headed by your

(Testimony of L. A. Perry.)

name in the Aero News of Friday, March 27, 1942, and ask you to read that and tell me whether you wrote the article therein.

A. That is true, yes.

Mr. Riggs: I would like to have certain extracts from this article in evidence. I don't care for all of it. If Mr. Harrington would like it all, it makes no difference to me.

Mr. Ryan: Let me see it.

Mr. Harrington: What article is it? What parts do you wish to offer, please?

Mr. Riggs: The part which has been enclosed in blue pencil.

Mr. Harrington: I object to that on the ground it is irrelevant.

Trial Examiner Hektoen: It may be admitted.

(The document referred to was received in evidence and marked Respondent's Exhibit No. 8.) [603]

RESPONDENT'S EXHIBIT No. 8

March 27, 1942 Aero News

On The Firing Line

By L. A. Perry

Business Representative

(Cut)

Representing Departments: 19, 30, 35, 37, & 69,
80, 85, 87, 90, 91.

High Cost of Living

As fast as we make it we spend it so the Union

(Testimony of L. A. Perry.)

is naturally interested in making the member's dollar do a hundred cents worth of worth, as any good Union Dollar should. To aid the worker along this line the Government has set up the Price Control law. To get the most out of this anti-profiteering piece of legislation, as a member of this Union, I would like everyone to advise me by card, letter, or phone, of any retail price that is out of line with the standard set up by the local authority, or has increased rather sharply in a short space of time. I might include rent also, as the machinery is set up now to crack down on landlords that are taking advantage of the worker by increasing the rent above the level of January 1st, 1941. We have the blanks here at the Hall (1054 3rd Ave.) and if you find it inconvenient to get down to the Hall just drop me a card and I'll send you one to fill out and return to this office for action. So if the rent has gone up out of reason we'll assist you in hammering it back down. I speak of all these items because we are a part of the Consumers Committee for Price Control in this area.

Union Shop—Our Goal

After analyzing many of our present problems down at the Plant and the growing reluctance of the Company to bargain with the Union on any item that comes up between the man and his Foreman, not to mention that 75 per cent of the employees are in the helpers classification, it is easy to see that the answer to this sad state of affairs

(Testimony of L. A. Perry.)

is a united Labor Organization in that Company. Big Capital needs Big Unions to properly cope with the steam-roller tactics that creep in when Big Capital takes over. A graphic instance of what is going on down in the Factory now, might be illustrated by the following episode that happened last week: a man recently hired into the Inspection Department at the Home Plant came steaming into the Hall, asking in no uncertain terms for a Business Agent, which in this case happened to be myself. He said, "I just came in from Minneapolis last week, and conditions are terrible here in Inspection Department. My God, do those boys ever need a Union; sign me up right now." Which reminds me that a lot of the others there feel the same way for we are taking the Inspectors into the Union in droves now where before it was a mere trickle. We signed up 531 men and women last week alone and before long I am of the opinion that we will exceed the all-time record set last April when we took in slightly over 1500 in one week, before the present drive for additional membership strength is over. We need every bit of strength we can muster, as many groups on the Capitalists side of the fence are lining up against us now. This coming Wage Review will do much to equalize wage discrepancies if it is supported by a large, militant membership. Of course, the non-member doesn't expect much out of his Review, at least, it is my opinion that he had better not, so his disappointment will be less keen, for whether you

(Testimony of L. A. Perry.)

know it or not, this is one time when the Company can't put anything over without the Union agreeing to it, and we'll see that we don't get pushed around too much!

[Printer's Note: The matter beginning with the word "This coming Wage Review" and ending with the word "put" is enclosed in blue pencil in the original.]

Department 19

This is one department where we have plenty of minor violations of our Agreement as regards consulting with the Shop Committeemen before approving increases for men in the Department. I might add that we are cataloging all the violations of our Agreement as they occur and when the list gets to be large enough we will go to the War Labor Board, and show this Company how many ways there are to kill a cat besides drowning it in milk!

Department 39

This is a brand new Department, and I understand it will be called PB2Y3 Final Assembly. At present Al Hogan is serving as Shop Committeeman there until the Department is large enough to either confirm him as Shop Committeeman or elect another. It is essential to have a Shop Committeeman no matter how small a Department is.

All Departments (Third Shift)

Although the majority of the third shifts are comparatively small in number yet it is very necessary that they all have Committeemen to serve and

(Testimony of L. A. Perry.)

protect the membership there and too, to comply with the various provisions of our Agreement. In some of the Departments present committeemen were transferred over from one of the other shifts, but if not then it will be up to the members working on this shift to assist me to provide one for them. To do that, come up to the Office and get a paper with the proper wording on it to circulate as a petition for appointment of the man that is agreeable to the largest number of men working there, to serve as Committeeman.

Other Departments

I don't have much news about other Departments but here is the place to air your news and views about conditions in the Department that you are working in. I'll appreciate all items and suggestions on ammunition for our Firing Line, and in the meantime, give your Committeeman a pat on the back for a good job well done, even as I am, because at the best his job is no bed of roses.

To Committeemen

Don't stick your neck out in your dealings with the Foreman. If you have to disagree with him (which is about all the time), present your case as you see it, and if it involves a violation of the Agreement, contact this office as soon as you can, and the same if it involves working conditions. Let the Business Representative do all the leading with his chin, as he isn't so apt to have it knocked off as you are, as he isn't on the Company payroll, which makes all the difference in the world some-

(Testimony of L. A. Perry.)

times. We've got an anti-Union Company to buck on their own ground so watch your job and we'll mop up on the violations via the legal channels, and How!

Mr. Riggs: Instead of marking the article, Mr. Examiner, I think it will serve the convenience of all concerned if I read the extract I want to put in evidence in the record.

Trial Examiner Hektoen: I think it would be better if you would put the page in, and then the only thing that would be necessary would be to have that part indicated by the blue pencil.

Mr. Riggs: I haven't got this in duplicate. I will put the column in instead of the page.

Trial Examiner Hektoen: All right.

Mr. Riggs: I will offer in evidence the column entitled: "On the Firing Line, by L. A. Perry, Business Representative of the Aero News," of Friday, March 27, 1942, in particular that part of it which is enclosed in blue pencil, which I would like to read on the record.

Trial Examiner Hektoen: It will be in the record.

Mr. Riggs: Could I read it on the record, because I haven't got the additional copies of the newspaper to furnish, and it doesn't seem to me there is anything else in the column which is material.

Trial Examiner Hektoen: Suppose you furnish the copy, consisting of just a typewritten piece of paper of that extract, the one we are particularly interested in?

(Testimony of L. A. Perry.)

Mr. Riggs: All right. I will do that.

Q. (By Mr. Riggs) In this article, Mr. Perry, Respondent's [604] Exhibit 8, "Of course, the non-member doesn't expect much out of his Review, at least it is my opinion he had better not, so his disappointment will be less keen."

Why should the non-union man not expect much out of reviews?

Mr. Ryan: I object to that as immaterial, asking for an expression of opinion by this witness.

Trial Examiner Hektoen: He may answer.

The Witness: Primarily, the non-union person in the shop would expect very little results of being in the collective bargaining unit if he had no voice in selecting the representation which he would have a voice in, by being a member of our union.

Q. (By Mr. Riggs) Do you mean your bargaining unit didn't look after the interests of non-members as well as they did the interests of union members?

A. It could be assumed as such, by knowing something about activities, of organized activities in the past.

Mr. Riggs: That is all.

Redirect Examination

Q. (By Mr. Harrington) Mr. Perry, that is just a statement of your opinion?

A. It is. It has no official reflection on my duties as business agent.

Mr. Harrington: I have no further questions.

(Testimony of L. A. Perry.)

Recross Examination

Q. (By Mr. Riggs) That was union policy, I think you said, was it not?

Mr. Harrington: The articles speak for themselves.

Mr. Riggs: I will withdraw that.

Q. (By Mr. Riggs) Was it or was it not union policy that the union as bargaining agent for all employees of this plant did not look after the interests of the non-union man in the same degree they did of the union men?

A. It is just merely assumed. I don't know as to whether the policy could be definitely stated or not. I am not aware of a policy of that kind, however.

Q. Who gave the union committeemen their instructions with reference to these wage and increase matters?

A. Instructions are issued in several ways. Primarily, they have the duties of shop committeemen's folder, as well as the card, to indicate their general duties, and that card, of course, is made up as all unions have a standard form, and has nothing to do with any particular collective bargaining unit.

Q. Were the shop committeemen instructed as to how they should regard individual rate increases?

A. I believe in the shop committee meetings there may have been some mention, under an educational program, as to action and conduct of our men in wage reviews. [606]

(Testimony of L. A. Perry.)

They have a very complex job to perform, and they may have received specific instructions that could be construed as such. Of that I have no direct knowledge.

Q. Was the policy of the union that all persons in the plant should receive wage increases on their respective merits?

A. Increases, if obtained, would be on the merits of the job being performed.

Q. And isn't it a fact that there are a great many cases where proposed increases of employees were rejected by the union when they were non-union men and accepted when they were union men?

A. There may have been instances of which I wouldn't be aware of any specific instance. In cases of that nature if the man felt he couldn't adequately represent them because he had not enough direct knowledge of the man's activities—that might happen.

Q. It was his duty to get direct knowledge. Wasn't that the job of the shop committeeman?

A. It is easy to relegate duties, but hard to enforce them.

Q. If the shop foreman didn't get enough knowledge about any particular individual to know whether to acquiesce or reject a wage increase projected, it was his own fault, wasn't it?

Mr. Ryan: I object to that as a hypothetical question.

(Testimony of L. A. Perry.)

Trial Examiner Hektoen: Do you think you can answer it, [607] Mr. Perry?

The Witness: Well, I'll tell you; primarily it could be answered that first, our wage review administration of it was not properly set up as we saw it, and later on, some adjustments were made in it, and the company then agreed that the individual committeemen might have access to the individual places of work on company time, which was a general agreement between the union and the company, and improved the administration of the wage review, considerably. [608]

Q. Do you remember as one of the business agents of the union making a report sometime in May, 1942?

A. I don't recall any particular dates relative to any report.

Q. Now, let me show you an issue of the Aero News of Friday, May 29, 1942, page 3, and ask you if that doesn't refresh your recollection that you, as one of the business agents, made a report to the union about that time?

(Handing paper to the witness.)

A. Which one do you refer to?

Q. I refer to these two columns headed "Business Agents Report."

A. Do you refer to the last paragraph there?

Q. I refer to all of those two columns on page 3, Mr. Perry, including down to the end of the second column.

A. (No response.)

Q. Will you answer my question?

(Testimony of L. A. Perry.)

A. What was that question—if I may have it? Trial Examiner Hektoen: Read the question.

(Question read.)

A. Yes. There was a report made. At least those articles indicate there was a report made and I collaborated in the writing of them.

Q. And is that the report that was made at that time as printed on that page? [609]

A. In what way do you ask the question? A report to a meeting or to an individual?

Q. I only know what it is headed. It says "Report of Business Agents." I don't know to whom it was made unless you can tell me.

A. A report is usually made in the meeting to the membership as a part of our business meeting, which may later be put in the paper for the edification of our members who do not attend meetings.

Q. Well, was this a report that was made to a union meeting?

A. To the best of my recollection it was.

Q. And you collaborated in the preparation of the report?

A. Yes, sir, as business representative I did.

Mr. Riggs: I would like to offer in evidence page 3 of the Aero News of Friday, May 29, 1942, the two columns headed "Business Agents Report" and more particularly that part of it which is entitled "Wage Review."

Mr. Harrington: We object to the introduction of this as immaterial.

(Testimony of L. A. Perry.)

Trial Examiner Hektoen: How much more of this sort of thing do you have, Mr. Riggs?

Mr. Riggs: Very little from this witness.

Will you please mark this, Mr. Reporter?

(The document referred to was marked as Respondent's Exhibit No. 9 for identification.)

[610]

Trial Examiner Hektoen: It may be admitted.

(The document heretofore marked for identification as Respondent's Exhibit No. 9, was received in evidence.)

(Testimony of L. A. Perry.)

Mr. Riggs: In this report is stated, Mr. Perry: "All of the foregoing are union proceedings," referring to the wage review, "so what happens to the non-union man's case as it goes through the hurdles? You said it, it takes a hell of a beating as well as it should get dunked every time we get a poke at it before running it out on the scrap pile."

What did you mean and refer to in that paragraph?

Mr. Ryan: We object to that entire line.

Trial Examiner Hektoen: You have a continuing objection.

The Witness: Shall I answer that one?

Trial Examiner Hektoen: Yes.

The Witness: I believe the meaning there or the interpretation of it is fairly clear. At least to the best of my knowledge it is fairly clear and I don't believe that a further statement is necessary.

Mr. Riggs: That is all.

I will do the same with this, Mr. Examiner, as to the other—have the part I desire in evidence copied in typewriting and submit it instead of having the entire article in evidence. [611]

Redirect Examination

Q. (By Mr. Harrington) Mr. Perry, does this article not also state that it is the committeeman's duty to guard against wage rate inequalities among groups of workmen doing the same kind of work?

A. That is true.

Q. Does it mention anything any different be-

(Testimony of L. A. Perry.)

tween union members and others in that statement?

A. To the best of my knowledge it does not.

Q. Is this report here again an expression of your opinion?

A. Purely as an individual expressing his views.

Q. Is this column here entitled "Wage Review" a part of the business agents' report?

A. It is not a part of the business agent's report.

Mr. Riggs: Is that all?

Mr. Harrington: Just a minute—yes, I have no further questions.

Trial Examiner Hektoen: Inasmuch as you have offered the two columns I think the union will undoubtedly give you another one of these papers, if you ask for it. I think the whole thing should be in in this case.

Mr. Riggs: May we go off the record?

Trial Examiner Hektoen: Off the record.

(Discussion off the record.)

Trial Examiner Hektoen: On the record. [612]

Mr. Riggs: Just one more question.

Recross Examination

Q. (By Mr. Riggs) Who collaborated with you in reference to this article?

A. I don't recall.

Q. Mr. Wilkerson and Mr. Phillips as well as yourself?

A. That I wouldn't be able to testify to accurately because I don't recall any specific meet-

(Testimony of L. A. Perry.)

ing in general with him in which we set down our general views.

Usually we submit—each one submits—may I say it this way, each one submits their report and they are blended in together as under the column of “Business Agents Report.” That is the reason for the plural in there.

Mr. Riggs: That is all.

Redirect Examination

Q. (By Mr. Harrington) Is that your wording in that report, Mr. Perry?

A. The wording in the report, yes, except occasionally it is edited for grammatical errors and similar things.

Mr. Harrington: That is all.

Mr. Examiner, I move to strike this entire line of testimony as immaterial and irrelevant.

Trial Examiner Hektoen: The motion is denied. That is all, Mr. Perry.

(Witness excused.) [613]

Mr. Riggs: Mr. Shanahan.

WILLIAM M. SHANAHAN,

a witness called by and on behalf of the Respondent, being first duly sworn, was examined and testified as follows:

Direct Examination

Q. (By Mr. Riggs) I may have some of these

(Testimony of William M. Shanahan.)

things out of order, Mr. Shanahan, but I want to take up——

Trial Examiner Hektoen: First let us get the witness' name. Will you give your name to the reporter?

The Witness: William M. Shanahan.

Q. (By Mr. Riggs) An address?

A. 3344 Whittier Street, San Diego.

Q. Are you employed by Consolidated?

A. I am, as treasurer.

Q. How long have you been treasurer?

A. Five years.

Q. How large was your department when you first became treasurer five years ago?

A. About 60 people.

Q. And how many people are in your department today? A. About 400.

Q. Are they divided between Plant 1 and Plant 2?

A. Yes, sir; about 50-50 between each plant.

Q. And what do your employees consist of?

A. Accounting clerks, timekeepers, tabulating operators and [614] secretaries-stenographers.

Q. Do you know Mr. Barnes? A. Yes, sir.

Q. How long have you known Mr. Barnes?

A. About two years.

Q. Did Barnes ever make any request for transfer from the timekeeping division?

A. On three or four occasions Mr. Barnes made requests to us for a transfer, but never obtained a permit from the department to which he wanted to

(Testimony of William M. Shanahan.)

go that was either satisfactory to him or to the department. At any rate we had never been informed that any specific department would accept him.

Q. Did you have any conversations with Mr. Barnes with reference to his transfer?

A. Yes, I believe on two or three occasions I talked to him about his transfer and told him that we could not assist in any way until such time as he found a department in which to go to.

Q. Was anything said about somebody to replace his position?

A. That was a standing order, that no man would be transferred until such time as we had an adequate replacement.

Q. What was Mr. Barnes doing at that time?

A. He was a timekeeper

Q. How long does it take to train a timekeeper to perform the duties of the office? [615]

A. My estimate would be about three to six weeks?

Q. Well, were replacements for Mr. Barnes' position hired at any time?

A. On two occasions I remember very definitely of hiring two men to replace him because of an expressed desire for a transfer. On each occasion he didn't complete the transfer and it was necessary to place these replacements in other positions.

Q. Did he withdraw his request for a transfer?

A. No. They were never completed.

Q. Just left on the table to be completed by finding a department to which he could go?

(Testimony of William M. Shanahan.)

A. That is correct.

Q. Now, do you remember in a wage review board when the question of Mr. Barnes' transfer came up, and you said that his request for a transfer was not in writing and, therefore, it did not count—anything like that happen?

A. I believe that has been misconstrued. I think the language that was used, that he had never completed his transfer, he may have interpreted that as never having reduced it to writing. What we meant was that he never obtained a department that was acceptable to him.

Q. Did you make a statement at that meeting with Mr. Wilkins, Mr. Shanahan, Mr. Vernon, Mr. Bragg and Mr. Lafler—I think it was in April of this year, that you had never re- [616] fused a man a transfer out of the accounting department?

A. That is correct.

Q. Did you make that statement?

A. That is correct.

Q. Is that true, that you never have refused?

A. We have never refused a transfer with the qualification that we would only consent to a transfer as and when we had a replacement—that is, we could not release him from his duties until such time as we had someone to take his place.

Q. And that wage review—after that wage review did Mr. Barnes again request a transfer?

A. He did, and it was granted.

Q. And where is he now?

(Testimony of William M. Shanahan.)

A. I believe in the tooling and methods department.

Q. Well, is there anything more about this Barnes matter that you want to say, Mr. Shanahan?

A. I think the only thing to say is that when the transfer was put in proper form it was expedited and he was permitted to go to the department he had selected.

Q. And after you had obtained somebody to replace him?

A. We had a man available as a replacement at the time he put in his request.

As a matter of fact I made special provision to see that the man was reserved to be put in Mr. Barnes' place so there would not be any holdup. [617]

Q. Do you know Mr. Shannon? A. I do.

Q. How long has Mr. Shannon been representing the union as a committeeman?

A. Since about April, 1942.

Q. Have you had talks with Mr. Shannon with reference to various proposed wage increases?

A. Only had one discussion with Mr. Shannon as to a wage increase outside of the wage review board.

Q. Where was that and what was it and when?

A. That was, I think, about sometime in June of 1942. We were discussing the rate increase proposed for Mr. Kreutzcamp.

Q. And Mason?

A. No, there was no discussion with Mr. Shannon about Mr. Mason. Mr. Mason's case was handled

(Testimony of William M. Shanahan.)

by the master board.

Q. Well, what was the case of Kreutzcamp? Will you tell the Examiner what it was all about?

A. In the April wage review all members who were considered by the April wage review were referred to the master board and only two cases accepted by the shop committeeman. One was Kreutzcamp and the other one was Mason.

Q. How much had been recommended by Kreutzcamp's foreman?

A. An increase of 7 cents was recommended for both Mason and Kreutzcamp. [618]

Q. Do you know whether or not they were members of the union?

A. I understand from the committeeman that they were not, although I have no information on that subject.

Q. Well, were there other men recommended for increase on that same list?

A. I would estimate there were about 30 other men.

Q. And what increases were recommended for them?

A. From 7 to 11 cents an hour.

Q. What happened to those cases, including Mr. Kreutzcamp?

A. All cases except Kreutzcamp and Mason were sent to the master board and later Mason's case was referred to the master board by the industrial relations department because of the apparent discrimination.

(Testimony of William M. Shanahan.)

Q. The cases that were sent—why were the cases sent to the master board? Because there was a difference between the company's representatives and the union's representatives as to what the increase should be?

A. That is right; we were recommending from 7 to 11 cents and the union was asking from 20 to 40 cents an hour.

Q. And they asked from 20 to 40 cents an hour increase over that proposed for all persons on the list except Mason and Kreutzcamp; is that right?

A. That is correct. In the case of Mason and Kreutzcamp they accepted 7 cents an hour for each of those men. [619]

Q. And that was the initial recommendation of the foremen, was it? A. Correct.

Q. Now, after the decision of the master wage board, as you call it, what happened to the men's cases that went up there?

A. The men who were performing the same duties and who had the same experience and were of the same ability as Mr. Kreutzcamp and Mr. Mason, were given from 7 to 11 cents an hour increase.

When that became apparent we asked the committeeman to approve a merit increase for Mr. Kreutzcamp to 11 cents an hour which would make his increase and his rate of pay comparable to the rate we were paying three other men performing substantially the same work.

Q. So that as I understand you, the increase that you desired to get for Mr. Kreutzcamp was to

(Testimony of William M. Shanahan.)

equalize for him what had been given to people performing the same duties that had been given by the master board upon the appeal?

A. That is correct, and the change of status slips submitted to the committeeman contained those words, "To equalize wages."

Q. Was that the occasion—that was in order to prevent people from doing the same work being paid a different price?

A. That is correct. [620]

Q. Was that the subject of the conversation with Mr. Shannon?

A. Yes. He came to my office and said that he refused to sign—refused to approve the change of status slips until such time as I granted comparable increases to union men, stating that Mr. Kreutzcamp was not a union man and, therefore, he would not approve the increase until such time as we made similar adjustments for union members.

Q. And that would mean an additional 3 or 4 cents an hour for the union members?

A. There was no limitation as to the amount.

Q. If you granted an additional increase to the union members as the price of getting Mr. Kreutzcamp increased, it would have resulted in further inequality, wouldn't it?

A. Correct.

Q. Did you tell Mr. Shannon that you wanted him to sign that on the spot or the next day or within any particular period of time?

A. I told him he could either sign it or I would send it to arbitration. I told him that his conduct in saying that he would not approve an increase

(Testimony of William M. Shanahan.)

for non-union men was contrary to the spirit of the agreement, the labor agreement, and contrary to the spirit of the entire National Labor Relations Act.

Q. And did you say anything about your experience with other [621] committeemen in your department?

A. We have had a very fine experience with the other committeemen in the department. As a matter of fact it is my recollection that with the five other committeemen that we have had in the department, we have had only perhaps about 10 cases go to the master board out of about 125 reviews.

Q. Did Mr. Shannon—what did Mr. Shannon say with reference to your suggestion that the matter of Mr. Kreutzcamp be referred to arbitration?

A. Well, he apparently didn't understand that procedure at all.

Trial Examiner Hektoen: What did he say?

Mr. Harrington: I object.

The Witness: He made no response.

Mr. Harrington: I move that that answer preceding the last one be stricken.

Trial Examiner Hektoen: Strike it out. [622]

Q. Did you have a conversation with Mr. Shannon in April in the ante-room just off the wage review board, prior to entering the room?

A. I don't recall any such conversation. The only conversation I had with him in April that I have any recollection of was about an article which appeared in the *Aero News*, which, in substance,

(Testimony of William M. Shanahan.)

accused me of rubbing vanishing cream on committeemen and making them vanish.

Q. Do you remember a conversation with him in April, outside the wage review board, where you said: "What do you want to be in this thing for? I have had you older men in the timekeeping department in line for advancement, and you know you are sacrificing your chance for advancement."

Did you ever have such a conversation?

A. There was no such conversation, and that would be contrary to our rating sheets which showed Mr. Shannon not to be above an average timekeeper.

Q. Was he one of the older men of the department? A. One of the older men, yes.

Q. In May, did you have a conversation with him about a list of men, up for wage review at that time?

A. No, sir, there was no conversation in May. In the May review I was late getting to Plant 2 and the wage review had already started before I arrived.

Q. Did you have a conversation with him at any time in May, [623] or any other time, when you suggested you went into the wage review board and that you bickered and argued and that you could eliminate that right thore and agree on the increases?

A. At the conclusion of one of the wage reviews I told him his apparent effort was to cause dissatisfaction and not to attempt to really wage review individuals, and that he never made any really honest attempt to suggest rates that might have been agreed upon.

(Testimony of William M. Shanahan.)

Q. Did you say anything more to him than that?

A. That is all.

Q. What did he say to that?

A. His reply was that he was instructed by the union to ask those wage increases.

Q. Did you ever have any conversation with Mr. Shannon in which you talked about Barnes and Blake and Al May, timekeepers that had been shifted around?

A. No such conversations, no.

Q. Did you ever have any other conversations with him about wage reviews?

A. Not to my knowledge, no.

Q. Did he come into your office occasionally?

A. Never came to my office except on one occasion to discuss the case of Kreutzchamp.

Q. Did you ever see him between wage review meetings?

A. Perhaps once or twice on the street between the adminis- [624] tration building and the plant, but never to speak with him.

Q. So that your acquaintanceship with him consisted of meeting him in wage review boards and on this occasion when he called at your office about Kreutzchamp?

A. That is correct.

Q. Did you ever have any conversation with him out in front of the building where you told him that he was to stay out of the tabulating and auditing departments?

A. No, that conversation was before the wage review board. I suggested before he went to the tabulating room and into the accounting room that

(Testimony of William M. Shanahan.)

he contact the foreman before going to the individual members, so that they would know on what mission he was there, which was in accordance with the regular procedure followed in all other conferences, where one man goes from one department to another.

And it is my recollection that the other members of the wage board cautioned him to so do, to follow precisely that arrangement, because in other instances where it hadn't been followed, it caused difficulty.

Q. Now, the April list, I think you said it was, that all the projected increases went to the master board except Kreutzcham and Mason. Is that correct? A. That is true.

Q. It was the April list? A. Yes. [625]

Q. What happened to the May list of proposed wage increases?

A. I think about 75 per cent of those went to the master board and all on the June list went. Perhaps it would be interesting to note that Mr. Shannon agreed with three increases represented on the June list, and appealed those three, in order not to spoil his record.

Mr. Harrington: I move to strike that as a voluntary statement.

Trial Examiner Hektoen: Stricken.

Q. (By Mr. Riggs) How many on the June list were approved by Mr. Shannon? A. None.

Q. You say about 75 per cent went to the master board of that list? A. That's the May list.

Q. The May list. I beg your pardon.

(Testimony of William M. Shanahan.)

A. That is right.

Q. What happened to the other 25 per cent?

A. They were accepted.

Q. Upon the foreman's recommendation, or upon the increase proposed in the wage review board?

A. Most upon the foreman's recommendation. One or two were negotiated.

Q. Were all on the May list union men or non-union men?

A. I have no information on that, sir. [626]

Q. Now, the June list, how many went to the master board? A. The entire list.

Q. Were there any on the June list that were approved by Mr. Shannon? A. None.

Q. What happened to the proposed list in June?

A. I think it is now before the master board, or has recently come down to the master board.

Q. In the June list did Mr. Shannon propose increases for every man on the list above those proposed by the foremen? A. That is correct.

Q. In the July review, do you recollect that?

A. I do.

Q. How many were there on that list, if you can recollect? A. About 35.

Q. Tell what happened to that.

A. That entire list was sent to the master board.

Q. Mr. Shannon didn't agree to any——

Mr. Ryan: I object to that.

Q. (By Mr. Riggs) Did Mr. Shannon agree to any on that list?

Mr. Ryan: I object to these leading questions.

(Testimony of William M. Shanahan.)

Trial Examiner Hektoen: Read the question.

(The question was read.)

Trial Examiner Hektoen: Sustained. [627]

Q. (By Mr. Riggs) Did Mr. Shannon agree to any on the July list?

Mr. Ryan: I think that is still a leading question.

Trial Examiner Hektoen: No, I don't think so.

The Witness: He did not.

Q. (By Mr. Riggs) What did he say in regard to the people on the July list?

A. We would take up the names one by one with my recommendation as to the amount of increase, and he would invariably ask for approximately twice what we recommended, and showed no signs——

Mr. Ryan: I believe——

Mr. Riggs: Never mind.

Mr. Ryan: I am sorry. I didn't know you weren't through. Go ahead and finish.

The Witness: Will you read that last?

(The answer was read.)

The Witness: ——receding from this demand, and therefore, there was no point to attempting to negotiate further on each individual man.

Mr. Ryan: Mr. Examiner,——

Q. (By Mr. Riggs) Did they go to the master board? A. That is correct.

Mr. Ryan: Mr. Examiner, we are objecting to this line of questioning on the ground it is immaterial and irrelevant, [628] and has no bearing on the issues in this case.

(Testimony of William M. Shanahan.)

Trial Examiner Hektoen: You have a standing objection.

Q. (By Mr. Riggs) Have there been any other wage review lists in which Mr. Shannon has been interested, since July?

A. We have a list in August.

Q. How many were there on that?

A. About 16 or 18.

Q. What happened to that list?

A. Most of those were sent to the master board also.

Q. Were there any on that list not sent to the master board? A. I believe not.

Q. What increases, if any, did Mr. Shannon ask for the people on that list?

A. Our general increase was about 8 cents an hour, and he was asking for about 15 to 20 cents an hour.

Q. Did he ask that with respect to all people on the list or half of them, or the majority of them?

A. The majority of them.

Q. Did you have a conversation with Mr. Shannon at any time in which you told him he was treading on thin ice and you could make trouble for him and probably get him removed as committeeman?

A. I had no such conversation.

Q. Did you ever present to him a signed statement that he had been in the tabulating department trying to coerce men [629] into joining the union?

A. There is no signed statement in existence.

(Testimony of William M. Shanahan.)

Q. Did you ever present him a statement and ask him to sign it? A. I did not.

Q. Have you explained all that you want to say with reference to his going in and out of the tabulating department?

A. There was a report came to me that he had gone to the tabulating operators and said: "If you don't join the union you won't get an increase, and I——"

Mr. Harrington: I object to that.

Trial Examiner Hektoen: You may continue. And you what?

The Witness: I attempted to get somebody who would definitely make the accusation, so that we could submit it to the industrial relations department, and no one was willing to make the statement in writing, so we abandoned the investigation.

Q. (By Mr. Riggs) In the conversation in your office about Kreutzchamp, have you given us the entire substance of what was said on both sides?

A. I have.

Q. How long did it last?

A. 15 minutes, I would say.

Q. Did you tell him to go home and look at himself in the [630] mirror?

A. I told him to go home and reflect upon his conduct, and see whether he could in conscience continue his course of conduct that was causing difficulties in the plant.

Q. Did you say you couldn't deal with him and you couldn't get together? A. That is correct.

(Testimony of William M. Shanahan.)

Q. Did you say: "You are the only committee-man that takes all these cases up to the master board"? A. That is correct.

Q. Did you state to him: "Drop the whole thing or get out of the department"?

A. I did not. It wasn't within his province to drop them, so it would have been a useless statement.

Q. Do you remember the specific names of Butler, Demaree, and Mathes?

A. I don't remember their initials.

Q. Do you remember the last names of these three men? A. Correct.

Q. What list were they on?

A. I believe they were either on the April or May list.

Q. Do you remember how much the foreman had recommended for an increase for those three men?

A. I think 8 cents each. I am not sure.

Q. Do you recall what Mr. Shannon requested for them? [631]

A. Requested 30 cents for one of them and 20 cents for another. I think for one of them he requested 30 cents, and 20 cents for each of the other two.

Q. What happened to those cases?

A. They were sent to the master board and I think awarded 10 cents.

Q. Was that award in the line of what was being offered by other departments and accepted?

A. I think it was a cent or two higher than what was being awarded to other departments.

(Testimony of William M. Shanahan.)

Q. Do you remember a man in your department named Hardman? A. I do.

Q. What was his full name?

A. I don't know what his first name is.

Q. Was there a time when he wanted to be transferred to some other department?

A. He didn't want to be transferred, but he was an unsatisfactory timekeeper, and we told him he would either have to seek a transfer or be terminated.

Q. Did he seek a transfer? A. He did.

Q. What happened to him?

A. He was transferred to the materials department, I believe.

Q. What is the practice with reference to transferring of an employee? [632]

A. The man makes a formal transfer to the personnel department indicating his desire to go into a specified department. The personnel department determines from the foreman of the indicated department whether that foreman will accept the transfer, and if he will, then the request for transfer is sent through to the foreman of the department in which the man is presently working.

Q. In the case of a transfer, what is the rule with reference to the foreman who makes the recommendation, as to the rate of increase when the rate review comes up?

A. A man that is in the process of being transferred during a wage review, is reviewed either in the department from which he was going, or in the

(Testimony of William M. Shanahan.)

department to which he was going on the date he is scheduled for review.

Q. I don't think I quite understand you. Do you mean, after the transfer takes place the foreman in the department to which he has been transferred makes the recommendation?

A. That is correct.

Q. And does the department from which he has been transferred have anything to do with the recommendation? A. They do not.

Q. Did you have any talks with Mr. Hardman about any special merit increases either before or after his transfer?

A. Mr. Hardman arranged to transfer, which was to take place in about two weeks. During the two weeks' interval he came to [633] me and requested me to arrange with the wage review board to have his case considered as a special case, to which I replied that I had no authority to do that, and I was sure they wouldn't consider it, because they—if they did, it would just delay the entire program.

Q. How many times did you talk about it with Mr. Hardman? A. Three times.

Q. What did you say in the final interview with respect to whether your department would recommend the increase or whether he was to wait until he got to the new department to have that department recommend him?

A. I told him the plan adopted by the company and the union was that the man would be considered by the wage review board on the date he

(Testimony of William M. Shanahan.)

was scheduled in for wage review, and if on that date he was a member of department 2, he would be considered. If not, he would be considered in Department 8, I think that was the department to which he was going.

Q. Do you know Mr. Condon? A. I do.

Q. Do you remember having an interview with Mr. Condon during the four days he said he was shop committeeman?

A. I had an interview with him on the last day that he was a shop committeeman.

Q. Tell us what that interview was. What was said?

A. He came to see me about Mr. Hardman's case and I had [634] not been informed that he was a committeeman. And I said, "Why are you interested in it?"

Then he informed me he had been appointed temporary chairman, and I said it was somewhat strange; "You are leaving the department tomorrow morning, therefore it is sort of useless to take up matters of this kind, because you won't have time to complete any arrangements that might have been discussed;" with which I think Mr. Condon agreed.

However, in order that there would be no misunderstanding, I explained to him that Hardman's claim for special wage review was not within my power to grant, and I suggested inasmuch as it was going to be something that would run over a couple or three weeks, he leave the entire matter for his successor, who was to be appointed the following day.

Q. Did you say anything to him about Mr. Hard-

(Testimony of William M. Shanahan.)

man bothering you about the matter and you weren't going to be bothered any more?

A. I told him Mr. Hardman had been in to see me three times, and he knew as well as I did the wage review had to be conducted on the date scheduled, and there was no point in going into the matter any further.

Q. Did you say anything about terminating Mr. Hardman?

A. I told Mr. Condon if we would grant Mr. Hardman a wage review, the foreman to which he was being transferred would undoubtedly refuse to accept the transfer, and we would be [635] compelled to terminate Mr. Hardman.

For example, if the foreman to whom Mr. Hardman was going agreed to accept him at 80 cents an hour and he suddenly realized he had a 90 cents an hour man, he may refuse to accept him because it would cause conflicts in the new department.

Q. Had you told Mr. Hardman on those three occasions that he was an unsatisfactory timekeeper?

A. No, he told me he was an unsatisfactory timekeeper, the first time he asked to see me.

Q. Did you tell him at that time that unless he succeeded in completing the transfer you might terminate him?

A. I think he had a very definite understanding, unless he obtained the transfer it would be necessary for us to terminate him.

Q. You say you think he did understand that? Did you say that to him?

(Testimony of William M. Shanahan.)

A. He was told very definitely that would be the procedure.

Q. Do you know Mr. Blake? A. I do.

Q. Was Mr. Blake timekeeper from May to October 1941?

A. He was. He held the title; he wasn't a timekeeper.

Mr. Harrington: I move to strike that last remark.

Trial Examiner Hektoen: It may be stricken.

Q. (By Mr. Riggs) Was he in your department at that time? [636] A. He was.

Q. What are the duties of a timekeeper?

A. To verify the attendance of men in the shop and to ascertain the work that they are performing each hour of the day.

Q. How many times does the timekeeper visit the men upon whom he is checking?

A. From four to eight times a day.

Q. How many employees does each timekeeper check? A. About from 100 to 150.

Q. How many employees were there under Mr. Blake that he was to check?

A. Approximately 125.

Q. Where were they?

A. In the hull department.

Q. Where was that department?

A. It was located in Building 1.

Q. At the home plant?

A. In the home plant.

Q. Was that the building which is nearest to Lindbergh Field?

(Testimony of William M. Shanahan.)

A. It is the building in which the offices are located.

Q. The building in which the offices are located. What was the nature of the employment of these people who were under him as timekeeper? [637]

A. They were hull assemblers.

Q. Were they all in one place in the same building?

A. Within a relatively small area.

Q. Did Mr. Blake attend to his work regularly?

A. He did until about May of 1941 when he was appointed on a negotiating committee—appointed on a committee to negotiate a new labor agreement.

Q. What happened then?

A. Those negotiations were carried on and culminated in the agreement, I think dated June 12, 1941.

Q. Was that dated retroactively? I mean, was the agreement concluded and signed on the 12th of June, or was it reached some time later and dated back to the 12th of June?

A. I believe it was signed on the 12th of June and subsequently amended late in October.

Q. During this period from May to October what would you say with reference to Mr. Blake's attendance?

A. His attendance was very irregular. Sometimes he would attend a few hours each day and for weeks he would be on other assignments and not appear at all.

(Testimony of William M. Shanahan.)

Q. What happened? A. Pardon?

Q. Did you have any discussion about Mr. Blake with Messrs. Felton and Chudleigh?

A. Yes, I told Chudleigh and Felton that the arrangement in regard to Blake was somewhat unsatisfactory and that if [638] he were to continue on the negotiating committee, we would have to assign him temporary tasks; it was not practicable to have a timekeeper work only a few days a week or a few hours a day. [639]

Q. What did Messrs. Chudleigh and Felton say with reference to that?

A. They agreed that that was true and it would be perfectly in order to assign Mr. Blake temporary duties. Their particular interest was to have Mr. Blake available for work on the negotiating committee.

Q. Did you assign him to temporary duties?

A. I did.

Q. Now, was there a time—do you remember having a conversation with Mr. Felton at one time about Mr. Blake being given a leave of absence to attend to his duties with the union?

A. All such conversations relative to leaves of absence would have to be with the industrial relations department.

Q. Well, did you have a conversation with Mr. Felton that you recall, with reference to it when he asked you for 30 days leave of absence. I think it was?

(Testimony of William M. Shanahan.)

A. I don't recall any such conversation.

Q. Did Mr. Blake get a leave of absence to act as financial secretary of the union?

A. I believe the explanation of that is that Mr. Blake——

Trial Examiner Hektoen: Wait a minute. Did he?

The Witness: (No response.)

Trial Examiner Hektoen: Read the question.

(Question read.) [640]

The Witness: He did not get a leave of absence to act as financial secretary.

Trial Examiner Hektoen: All right, let us have another question.

Q. (By Mr. Riggs): What did he get?

A. He got a leave of absence to work for the union up until such time as he was formally elected as financial secretary and then he was given a permanent leave.

Q. Now, Mr. Blake testified here at one time that he was assigned to work in the vault where he was kept away from contact with other employees. What would you say with reference to that?

A. I would say that that is highly improbable because there is no working space in the vault.

Trial Examiner Hektoen: Now, wait a minute.

Q. (By Mr. Riggs): Did you ever assign him to work in the vault? A. I did not.

Q. Do you know whether Mr. Vernon did?

A. I am sure he didn't because I make frequent

(Testimony of William M. Shanahan.)

trips to the vault and I would have found Mr. Blake in the vault working and would have immediately ordered him out.

Q. Are there any desks in the vault?

A. There are no desks there.

Q. Mr. Blake—was Mr. Blake subsequently transferred [641] to the time audit crew at the Parts Plant?

A. That is correct.

Q. Had you had any talk with him previous to his transfer?

A. On two or three occasions Mr. Blake requested me to give him duties which would enable him to get some auditing experience, and to eventually transfer into the accounting department, and he was assigned to the time audit division in preparation for, or in anticipation of eventually being transferred into the accounting department.

Q. Well, after he was transferred to the Parts Plant what duties was he engaged in?

A. He was engaged in the verifying of the time worked by the individual employees from their clock cards.

Q. Did he have anything to do with the compiling of records of assignments of salaries—assignments of wages for union dues?

A. I think that was all done before he was transferred to the Parts Plant.

Q. Did Mr. Blake protest about his transfer to the Parts Plant?

A. He did not. We discussed it very fully and

(Testimony of William M. Shanahan.)

I told him exactly what the situation was and he accepted it.

Q. Can you give us those discussions a little bit more in detail—the substance of them?

A. As I recall the substance was that Mr. Blake was a candi- [642] date for financial secretary and he was in a run-off election, in which he didn't know whether he would be successful or not, and if he was successful, of course, he would take a permanent leave. If not, he wanted to come into the accounting department.

We said pending the time—pending the outcome of the election he should go into the time audit division and whatever experience he gained there would be useful in his work as a financial secretary.

Q. Did he object to that?

A. He did not.

Q. After that transfer had been made did Mr. Blake visit at your home?

A. He did on three occasions. He came to my home twice by himself and once with a young lady whom he introduced to me and my family as his fiancée.

Q. You are on friendly terms with him—you were at that time?

A. I was and I still am. Mr. Blake on several occasions has called me and discussed various accounting features of his present job.

Q. And have you given him advice when he

(Testimony of William M. Shanahan.)

called you on the phone with reference to his present job? A. I did.

Q. Did you transfer Mr. Blake on any of these occasions in [643] order to prevent him from doing legitimate work as shop committeeman?

A. I did not.

Mr Ryan: I object to that as calling for a conclusion.

Trial Examiner Hektoen: It may stand.

Mr. Riggs: That is all.

Trial Examiner Hektoen: We will have a short recess.

(A short recess was had.)

Trial Examiner Hektoen: We will be in order. Do you have another question?

Mr. Riggs: Yes.

Q. (By Mr. Riggs): Mr. Shanahan, is there anything you want to correct in your statement before the recess?

A. Yes. Upon conferring with my assistant, Mr. Vernon, I learned that Mr. Blake did spend approximately two days in the vault filing some requisitions, or overtime authorizations, instead of requisitions.

Q. Had a desk been put in there for him?

A. Just a small table. I had no knowledge of him having been in the vault during that period.

Trial Examiner Hektoen: All right, Mr. Harrington.

(Testimony of William M. Shanahan.)

Cross Examination

By Mr. Harrington:

Q. Mr. Shanahan, did you immediately before getting on the stand, read the transcript as it pertains to your testimony? [644]

A. Parts of it. Did you say my testimony?

Q. The testimony as it pertained to you?

A. Just parts of it.

Q. When did Barnes make his three or four requests for transfers?

A. I think over a period of about 15 months.

Q. When was the last one with respect to his transfer?

A. In April—the first one was in—well, strike that, please. The last was in April, 1942, and the first one was about January, 1941.

Q. Were any of Barnes' requests for transfer ever completed?

A. I have no recollection of any except the last one which was carried through.

Q. Did Barnes request a transfer after this wage review? A. Yes.

Q. Who did he request it from?

A. Personnel department.

Q. Who in the personnel department, do you know?

A. I really can't answer that.

Q. How did you know that Mason and Kreutzcamp were not union men?

A. The committeeman informed me.

Q. On that list that they were on, I believe you stated there was about 30 men on the list?

(Testimony of William M. Shanahan.)

A. That is correct. [645]

Q. And did the work of Mason and Kreutzcamp differ from the work of those 30 other men?

A. Not materially, no.

Q. And what was their rate of pay in relation to those 30 other men?

A. About the same.

Q. Who initiated the suggestion that Kreutzcamp be brought up to the rate that you say the union men received?

A. Mr. Kreutzcamp himself made a formal request that his case be reconsidered.

Q. Who was the request made to?

A. To me.

Q. And then what did you do with that request?

A. I sent it back to his supervisor for a recommendation and the supervisor recommended that the wages be equalized, which I did.

Q. Did I understand you to say that Kreutzcamp's work was substantially of the same type as that of the union men on the list?

A. That is correct.

Q. And was his rate of pay substantially the same also?

A. Well, there are some differences in the rates of the older men who were doing timekeeping.

Q. Was Kreutzcamp an older or newer man?

A. He was a newer man. [646]

Q. And the other men on the list were older men than he was?

A. No. There are probably 80 per cent of them that had about the same service as Kretuzcamp

(Testimony of William M. Shanahan.)

and the other 20 per cent were men who had been with the company two or three years.

Q. You stated that at the conclusion of one wage review you told Shannon that he never made any real, honest attempt at wage increases.

A. I told him in my opinion he made no honest attempt to conduct the wage review board as it should be conducted.

Q. That was your opinion?

A. That is correct.

Q. You stated that about 75 per cent of the men on the May list went to the master board and that men on the June and July lists went to the master board also? A. That is correct.

Q. Well, was there anything wrong in those lists going to the master board? What was the master board set up for?

A. The master board was set up to consider all cases where the department head and the union representatives disagreed.

Q. And didn't that represent a disagreement?

A. That is correct. Although it was never intended that the master board should be substituted for the wage review [647] board. You were supposed to negotiate and settle the wages in the lower board.

Q. Is it your opinion that Shannon must agree on those lists, as you see them?

A. No, but I believe that the willingness to negotiate and consider the merit of each man would be reflected in a more nearly—in a reasonable re-

(Testimony of William M. Shanahan.)

quest for increase than was made by Mr. Shannon.

The *modus operandi* in the master board is to say "How much does the foreman recommend?" and I would say "7 cents," and then they say, "How much does the union recommend?" and he would say "35 cents."

Q. Well, do you know what he would base his recommendation on? A. I do not, no.

Q. Were the wage increases in Shannon's group usually higher than those in other groups?

A. I think as they passed the master board they were on a general level with everything that passed the master board and that has more or less set the pattern for all subsequent increases.

Q. On the transfer procedure, when men transfer from one department to another, what did you state the department was that he reviewed in?

A. He is reviewed as of the date he is scheduled, regard- [648] less of the department in which he is working.

Q. Well, how does a foreman of a department a man is going into know enough about his ability to intelligently make any recommendations as to the man?

A. He reviews the man's record. A man's record passes from one department to another and if he has any—if he isn't acquainted with the man's abilities he is required to go to the former foreman and ascertain the man's abilities.

On the transfer sheet the foreman of the de-

(Testimony of William M. Shanahan.)

partment from which the man is transferred must express an opinion as to the man's ability.

Q. When Blake was timekeeping how often a day were the men checked by the timekeeper?

A. Well, I would say from four to eight times.

Q. At that time? A. At that time.

Q. In that conversation you testified you had with Shannon in the anteroom off of the wage review board, what did Shannon say?

A. That was the conversation relative to the publication?

Q. Well, you have testified to it. It was in the anteroom right outside of the wage review board.

A. The only conversation I had with him was relative to some article that appeared in the official union paper and relative to some difficulties or other, and I said that I was [649] curious to know where that originated.

It was represented in the article that there had been several complaints on the part of the committeemen and I asked him whether he had any complaint and he said, "No."

Q. Did he say anything else in that conversation?

A. I think that was the substance of the entire conversation.

Trial Examiner Hektoen: Is that the one that you are supposed to have had with him in April before the first wage review?

The Witness: I don't know as to the date. The

(Testimony of William M. Shanahan.)

only conversation I had with him was relative to a publication in the official union newspaper.

Q. (By Mr. Harrington): Did Shannon tell you that he was there representing the men and you shouldn't take it out on him?

A. There was no such statement made. There never was any attempt to take it out on him.

Q. I am asking you did he make that statement or any statement of that nature?

A. He did not, not to me.

Q. Did Shannon tell you that placing those two non-union men, giving them the rate you asked for, would create an inequality in rates between them and men doing comparable work? [650]

A. He did not.

Q. Men of equal ability?

A. That would not have been true.

Q. Well, did he say that?

A. No, he did not.

Q. Were the wage increases requested by Shannon invariably higher than those recommended by you?

A. I would say at least 100 per cent higher.

Q. Is that one of your criticisms of Shannon?

A. No. I have no criticism. That is negotiation and there is no criticism of his method of negotiation except that I feel that that isn't the spirit—that that isn't the intention of the wage board, to just go through a sham. You are really

(Testimony of William M. Shanahan.)

supposed to go in there and attempt to settle the wages. At least, that is what we accomplish with the five other committeemen.

Mr. Harrington: I have no further questions.

Mr. Riggs: That is all.

Trial Examiner Hektoen: That is all, Mr. Shanahan. Thank you.

(Witness excused.) [651]

A. A. VERNON,

called as a witness by and on behalf of the Respondent, having been first duly sworn, was examined and testified as follows:

Direct Examination

By Mr. Riggs:

Q. Your full name and address, please?

A. A. A. Vernon, 3555 Quimby Street.

Q. Are you employed by Consolidated Aircraft Corporation? A. Yes, sir.

Q. In what capacity?

A. Senior chief timekeeper.

Q. What department?

A. Department 2.

Q. Who is head of that department?

A. Mr. Shanahan.

Q. How many timekeepers do you have under you?

(Testimony of A. A. Vernon.)

A. There are approximately 80 on the day shift at plant 1, and about 6 on the other crew.

Q. Are there any timekeepers in the plant not under your jurisdiction? A. No.

Q. All the timekeepers are under you and the treasurer's department? A. Yes, sir. [652]

Trial Examiner Hektoen: You only mentioned Plant 1. Are they all in plant 1?

The Witness: No, there are similar ones in Plant 2.

Trial Examiner Hektoen: I see. About 160 altogether?

The Witness: Yes.

Q. (By Mr. Riggs): Is there a night chief timekeeper? A. Yes, sir.

Q. Is the night chief timekeeper under you?

A. No. He, on any questions that he wants help on; he does, on routine procedure, he takes care of himself.

Q. Do you know Mr. Blake?

A. Yes, sir.

Q. When did he first come into your department?

A. I have forgotten the date. It's a considerable length of time. He was hired by the company I believe in Department 8, and requested a transfer into our department.

Q. Do you recall when he became a union committeeman?

A. Shortly after he came into our department, I believe.

(Testimony of A. A. Vernon.)

Mr. Riggs: Mr. Vernon.

Q. Can you fix the time at all?

A. I don't believe I could without looking at the records.

Q. How long a time did he act as a union committeeman?

A. Well, soon after he came into the department I believe he was appointed by the timekeepers and continued in that capacity.

Q. Where was his home station? [653]

A. In the hull department.

Q. When he was not in checking, what I mean by that is: When he was not checking the employees, whom he was supposed to check on, where did he spend his time?

A. I suppose at his desk in the hull department.

Q. Where was your desk?

A. Adjacent to the accounting department.

Q. How far away from his?

A. The hull department was originally in Building 1; that would be maybe 250 feet away. Then they moved for a short time over to Building No. 4, which was several hundred feet.

Q. Was there a time when Mr. Blake was in your office? A. Yes.

Q. Tell us how that came about?

A. Well, Mr. Blake, because of other activities, was not able to give the time to his job that he would have to, in order to do the work satisfactorily, and he used to come to me considerably. He had to go here or there on union business, which

(Testimony of A. A. Vernon.)

meant that there was no one to do his work while he was gone, and it isn't a job a person can drop and pick up when he comes back. He has to be on the job constantly throughout the day to accomplish his job.

Q. Well, do you know anything about any telephone calls he received? [654]

A. Well, most of the time he was in the same office that I was, doing clerical work, sorting, and different things, and we only had one telephone there at that time, and he would seem to use the phone more than was necessary——

Mr. Ryan: I object to that as a conclusion of the witness, and move it be stricken from the record.

The Witness: I would like to go a little further on that.

Mr. Riggs: Wait a minute.

Trial Examiner Hektoen: All right. I will take your motion to strike under advisement.

Q. (By Mr. Riggs): When was it he came into your office?

A. To work on other than timekeeping duties?

Q. Yes. As I understand it, at one time he was timekeeper in the hull department with a desk in that department.

A. Yes, sir.

Q. And supposed to check the time of the men in that department. Is that right?

A. Yes, sir.

Q. There was a time when he was transferred

(Testimony of A. A. Vernon.)

from those duties, and he says he was in your office. Is that correct? A. Yes, sir.

Q. When did the change take place?

A. Several months after he was transferred in as a timekeeper. I cannot fix the exact date. [655]

Q. You transferred him into your office?

A. I did.

Q. You did? A. Yes.

Q. What was the reason for it?

A. Because of the duties and functions of a timekeeper, he has to be on his job to accomplish his work, and he can't be gone for two or three hours and come back and do that work then, because the time is past. That has been gone, and he can't go back and do it. That isn't the nature of it.

Q. When he was transferred to your office was there any loss of pay or seniority?

A. No, sir. The understanding, as I remember it, that I had with Blake was that as soon as he would be able to keep time and really be on the job he would go back to his former duties with no loss of seniority or change of pay, or anything.

Q. While he was in your office he was still a union shop committeeman? A. Yes.

Q. How much of his time, if you know, was taken up with the duties of that position?

A. Considerable; sometimes it would be several times a day and sometimes it would be half a day at a time, and it [656] varied in amount of time.

Q. What were the duties he was performing while he was in your office?

(Testimony of A. A. Vernon.)

A. He would do miscellaneous clerical duties, such as filing and sorting, something he could leave with no—wouldn't penalize the work, because that could be done later if he had to leave.

Q. Was there any time he was working in the vault?

A. Yes. He was in there one, two, three, four days.

Q. You asked him to perform duties there?

A. I did.

Q. What did you ask him to do?

A. He was doing the same kind of work, whatever it was, sorting requisitions or filing, or something.

Q. Did it have anything to do with union membership cards?

A. Not at that particular time, they weren't in there.

Q. Or dues deducting cards?

A. Not at that particular time. That work was performed, I believe, in the accounting department. I might say—do you care to have me tell why he was in the vault?

Q. Yes.

A. At that time, as we are now, although more pronounced then, everyone was very short of room, including ourselves, and in those days the desk space in our office, we had about five or six tables and desks all taken up by people already [657] using them. There was some space available in the vault, and we put a little table in there just in-

(Testimony of A. A. Vernon.)

side the door for him to have a place to work, as we did for two or three others at that time, because of the shortage of space.

Q. Was the vault ventilated and light?

A. It had the same lights we did. The ventilation at the back of the vault I don't think was very good. However, as I remember, he was right next to the entrance door.

Q. While in the vault did you tell him he couldn't use the telephone?

A. I don't remember I did at that particular time, although I did speak to him about using the telephone too much, because we only had one phone to transact company business on.

Mr. Ryan: I object to the statement "Too much" as a conclusion of the witness.

Trial Examiner Hektoen: It may stand.

Q. (By Mr. Riggs): As chief timekeeper, did you have occasion to receive calls from the timekeepers that were under you? A. Yes, sir.

Q. How frequently?

A. Well, we counted them one day on a little counter, and as I remember, we received almost 112 on that particular day.

Q. From the men under your jurisdiction? [658]

A. Mostly, and the clerks in the factory.

Q. When was Mr. Blake transferred to the parts department?

A. I would say that he had probably been working in our office approximately three to six weeks; something like that.

(Testimony of A. A. Vernon.)

Q. Was he transferred to the parts department at his request?

A. No. We needed, as I remember it, we needed a man up there to do some clerical work; it happened to be on the audit crew, and that was another job he could drop if he had to and somebody else could take it up.

Q. Did he ever tell you he wanted to get some auditing experience?

A. No, I don't recall it if he did.

Q. When he was transferred to the parts plant, was he on the same shift he had been on before?

A. Yes, sir.

Q. The day shift? A. Yes, sir.

Q. Who was his immediate superior there?

A. While he was on the audit crew it would be Mr. Dart.

Q. Dart? A. Dart, D-a-r-t.

Q. How long had Mr. Dart been in command of that crew?

A. Oh, a comparatively short time, not over a few months.

Q. Was he an auditor? [659]

A. Well, their work consisted of checking the timekeepers' work; he was an auditor to that extent.

Q. Did Mr. Blake lose any pay or seniority rights when he was transferred to the parts department? A. None whatever.

Q. How long did he stay there?

(Testimony of A. A. Vernon.)

A. I would say not more than three or four weeks.

Q. What become of him then?

A. I think he—about that time I think he started devoting full time to union activities, or shortly thereafter.

Mr. Riggs: I think that is all.

Cross Examination

Q. (By Mr. Harrington) How many times did the timekeepers check the men a day when Blake was timekeeping?

A. In his department they were supposed to be checked about four times a day.

Q. You stated on one day you checked the number of phone calls.

A. Yes, that is right.

Q. Had you checked that number of phone calls at any other day before or after?

A. No, the reason we checked the phone calls we only had one phone, and we were trying to convince the management we should have another phone, and that's why we happened to [660] check it.

Q. Just the one day's check?

A. That is all.

Q. Whose phone calls were they? What I want to know is: Are you attributing all those phone calls to Blake?

A. Oh, by no means.

Mr. Harrington: I have no further questions.

(Testimony of A. A. Vernon.)

Redirect Examination

Q. (By Mr. Riggs) As I understand it, the phone calls you refer to were business calls to you that you wanted to show how much you needed the phone for your own purposes? A. Yes, sir.

Q. When was it that plant office, Plant No. 1 was crowded?

A. It was over a long period of time.

Q. What time was this when Mr. Blake was in your office and you said, I believe, that there were five or six tables there and all of them were occupied? A. Yes, sir.

Q. Was that correct? A. Yes, sir.

Q. I want you to fix that time, if you can.

A. It's hard to remember all those dates. I don't think I could fix the time close enough to be of value in the testimony.

Q. All right. Well, now, was that congestion ever relieved [661] to some extent in Building No. 1?

A. Later, when they expanded and built more offices and production space.

Q. Was there a time when a large part of Department 2, the tabulators, and so forth, were removed to the parts plant? A. Yes, sir.

Q. Was that the time Mr. Blake was transferred?

A. No, that was very much later.

Q. Much later?

A. It was—the reason he was in the vault, the condition was so severe there was a certain amount

(Testimony of A. A. Vernon.)

of humor to it that helped out. There was jokes passed by everyone right along that you had to get to work early in the morning if you wanted to find desk space to work on.

Mr. Riggs: That is all.

Q. (By Trial Examiner Hektoen) When did you make the phone call check? Do you know?

A. I didn't fix, try to fix that in relation to when Blake was in the office.

Q. Before or after, or during?

A. I couldn't say that, but the same condition existed, approximately the same condition existed when Blake was in the office when we made the check.

Q. Did you get an extra phone eventually?

A. Eventually, yes. [662]

Q. After he left? A. I believe so.

Q. Are you sure?

A. Yes. I would say it was quite a bit later.

Q. Have you any idea how many phone calls he did make?

A. There would be phone calls come in, when I answered the phone, and would know about it, sometimes one or two, sometimes four or five a day. Of course, when they come in close together, actually, no one else could call in on account of it being busy, and it would be disturbing.

Q. Did he make a lot of outgoing calls?

A. He did until I asked him to stop, unless it was very necessary.

Q. About how many did he make?

(Testimony of A. A. Vernon.)

A. About the same number as incoming calls.

Q. One or two, or as high as five a day? I suppose that was rather rare?

A. I couldn't say exactly.

Q. Of course, you weren't watching him every minutes. After you asked him to "lay off," as it were, did he? A. Yes.

Trial Examiner Hektoen: I think in view of the subsequent testimony of the witness your motion to strike will be denied.

Anything more? [663]

Mr. Harrington: I have a further question.

Recross Examination

Q. (By Mr. Harrington) Did you know, when transferring Blake to the parts plant, that he was shop chairman in Plant No. 1, that is, chairman of the shop committeemen?

A. I didn't follow his activities very closely as to the union. I don't know that I really considered it at all. He was the timekeeper's committeeman, and later he advanced to the other position. I don't remember that.

Q. Did Blake ask you for the transfer back to Plant No. 1? A. No.

Q. He didn't? A. No.

Mr. Harrington: I have no further questions.

Trial Examiner Hektoen: Thank you, Mr. Vernon.

(Witness excused.)

Mr. Riggs: That is all for today, sir.

Trial Examiner Hektoen: You had one or two other people called, and I think I see them here. Is there nothing else we could do now?

Mr. Riggs: I don't care about anybody else today. I will not call Mr. Condon or Mr. Barnes or Mr. Blake further.

Trial Examiner Hektoen: Well, so far we have had a very short session. There is absolutely nothing we could do further today? [664]

Mr. Riggs: No, sir. I have no other witnesses today.

Mr. Harrington: Could you let me know, Mr. Riggs, who you may need tomorrow?

Mr. Riggs: I don't think any of your people.

Trial Examiner Hektoen: Unless he lets you know, you will not be responsible for them.

We will adjourn until 10:00 o'clock tomorrow morning.

(Whereupon, at 4:10 o'clock p.m., Friday, September 4, 1942, an adjournment was taken until 10:00 o'clock a.m. September 5, 1942.)

[665]

Conference Room

Chamber of Commerce Building

San Diego, California

Saturday, September 5, 1942 [666]

Trial Examiner Hektoen: We will be in order.

Mr. Riggs: I would like to recall Mr. Shannon.

EVERETT M. SHANNON

recalled as a witness by and on behalf of the National Labor Relations Board, having been previously duly sworn, was examined and testified as follows:

Cross Examination (Continued)

Q. (By Mr. Riggs) Mr. Shannon, have you produced any list of employees in your department that were up before the wage board in April, May, June and July of this year? A. Yes, sir.

Q. Will you get the one in April?

A. I haven't them listed that way.

Q. What?

A. I haven't them listed that way.

Q. Have you got a list there of the names of men that were union men, that had been recommended for increases where you accepted the increase proposed by the foremen?

A. That is right.

Q. Will you give that to me?

A. Yes, sir. That's insofar as I can recall, sir. There would be others, but I am pretty sure those are the ones.

Q. Mr. Shannon produces a penciled list.

"I accepted these on Mr. Shannon's first offer."

[668]

Then follow the names of Davis, Gibbs, Carmona, Henley, Norton, Patterson, all with 8 cents apiece after their names; Hatchell, 7 cents; Cluen, Cundiff, Kukowski, Shannon, all with 8 cents apiece after their names.

(Testimony of Everett M. Shannon.)

Do you mean these were all the union men who were recommended by Mr. Shanahan for increases of a number of cents per hour put after their names? A. Yes, sir.

Q. Does this list extend from June or July, or one month only?

A. No, there is more than one month there. I don't know just which.

Q. This takes in all the men where you accepted Mr. Shanahan's first offer?

A. I wouldn't say that, no, sir. That is insofar as I can recall. There are a number not covered on either side as to that point.

Q. Were all these men union men?

A. Yes, sir.

Q. Were they union men prior to the time the rate increase was proposed? A. That is right.

Q. Or did you contact them after the rate increase was proposed?

A. No, sir, never. [669]

Q. Never contacted them? A. Never.

Q. I thought you said you went into the department—— A. Before, yes.

Q. Before—wait a minute. You and I don't understand each other. You told me after you got the proposed list of men whose wages were to be increased, you went into the department to contact them all. Is that correct?

A. That is right; that's before the review, sir.

Q. Before the review. And you contacted them

(Testimony of Everett M. Shannon.)

for the purpose of finding out whether they were union men or non-union men?

A. That's right, and their work abilities.

Q. And their work abilities, too?

A. That is right.

Q. How many times did you contact non-union men with reference to wage increases?

A. I contacted every man on my wage review list, union or non-union; there were very few non-union men to be contacted, because there were very few.

Q. You are aware that the contract contains a provision that the union agrees not to discriminate against non-union men? A. I am.

Q. Were you careful to observe that provision? [670] A. I was.

Mr. Riggs: That is all.

The Witness: You wanted another list, too.

Mr. Riggs: Yes. You have another?

A. You asked for a list of men that I brought down to Mr. Shanahan that night, those that were unequal that he wanted to grant, to Mr. Mason and Mr. Kreutzchamp.

Q. (By Mr. Riggs) Mr. Kreutzchamp was a non-union man? A. That is right.

Q. And he had obtained an increase of—

A. 7 cents.

Q. And on the same wage review he obtained his wage increase of 7 cents, there were a number of union men who obtained an increase of 11 cents, were there not?

(Testimony of Everett M. Shannon.)

A. I couldn't recall that. I do recall some at 7; some more than 7, and others 7 cents.

Q. Weren't there many union men who obtained 11 and 10 cents?

A. At that time in the reviews most of the new men were getting 7 cents.

Q. Answer my question: At the time Mr. Kreutzchamp's name came up in the wage review, were there not a number of union men who were advanced 11 cents an hour while Mr. Kreutzchamp was advanced 7 cents?

A. I would have to have my list, sir, to answer that. [671]

Q. You heard Mr. Shanahan testify to that yesterday? A. I was not here.

Q. Do you deny it? A. I was not here.

Mr. Riggs: I beg your pardon. I don't think that is material anyway.

Trial Examiner Hektoen: Is that all?

Mr. Riggs: Yes.

Trial Examiner Hektoen: Before you cross examine, tell me again exactly what your point is, Mr. Riggs.

Mr. Riggs: I am sorry that I haven't been able to make it clear.

Trial Examiner Hektoen: I have an idea, but I want to be absolutely sure.

Mr. Riggs: The union agreement contains a provision in Section 12: The company agrees not to intimidate or in any way discriminate against any employee because of union activities; the union

(Testimony of Everett M. Shannon.)

agrees not to intimidate or in any way discriminate against any employee not belonging to the union.

It seems to be in an accusation brought by the union, that the company is discriminating against union men, that it is equally relevant and important the company should be able to bring out that the union is discriminating against non-union men, contrary to the agreement.

Furthermore, in the absence of Congress having provided [672] in the National Labor Relations Act, the slightest opportunity for an employer to bring before the Board any violation of a union contract on the part of a labor union, it seems to me the ordinary provisions of equity with reference to coming into court with or without clean hands might be important in review in a court of law.

Trial Examiner Hektoen: I am dubious about that. The other day you said something about the situation having some bearing on Shanahan's possible statements. That is the main point.

Mr. Riggs: I think it is equally relevant with reference to that.

Trial Examiner Hektoen: All right. Then it is equally relevant to that. Now, we know what we are getting.

Redirect Examination

Q. (By Mr. Harrington) These lists, Mr. Shannon, do they show the comparative ability of men whose names are on the list, or what their present rate of pay is? A. Yes, sir.

Mr. Riggs: I object to the witness being inter-

(Testimony of Everett M. Shannon.)

rogated about a list I did not offer in evidence. It is not identified.

Trial Examiner Hektoen: Read the question.

(The question was read.)

Trial Examiner Hektoen: I do not get the objection. [673]

Mr. Riggs: I only referred to one list which I asked him to bring. He said these were the names of union men where he had accepted the first offer Mr. Shanahan had made. That was the list of names which I read into the record.

Trial Examiner Hektoen: Which you read into the record?

Mr. Riggs: The other list which he produced was a penciled list of men where wage increases had been recommended, which was not that particular point, and about which I asked him nothing, and which I did not offer into evidence.

Trial Examiner Hektoen: What is your point, Mr. Harrington?

Mr. Harrington: My understanding was Mr. Riggs had questioned him on both lists.

Trial Examiner Hektoen: I take it you did not on the second one?

Mr. Riggs: No, I did not.

Mr. Harrington: I am sorry, Mr. Riggs; I thought you had. I have no questions.

Trial Examiner Hektoen: Thank you, that is all, Mr. Shanahan.

(Witness excused.) [674]

DAVID GIRTON FLEET,

a witness called by and on behalf of the Respondent, being first duly sworn, was examined and testified as follows:

Direct Examination

Q. (By Mr. Riggs) Give your full name and address, Mr. Fleet, to the stenographer.

A. David Girton Fleet.

Q. And your address?

A. 555 San Fernando. That is my San Diego address. Vultee Aircraft, Vultee Field, California, is my business address.

Q. When did you first become employed by the Consolidated, Mr. Fleet?

A. Well, I first became employed by Consolidated in 1926, but my employment wasn't continuous.

Q. Was that when the company was located in Buffalo? A. Yes.

Q. And off and on how long did your employment continue?

A. I had approximately ten years of employment with them—intermittently.

Q. Well, when you say "intermittently," were you engaged in other businesses from time to time?

A. I was away at school from 1926 until 1931. I worked summer vacations there and from 1931 to 1942 I worked continuously with the exception of two years, at which time I [675] worked for my father in his office, but I wasn't on the company payroll.

(Testimony of David Girton Fleet.)

Q. During that time will you state some of the positions that you held?

A. Well, I started as a rib maker in the wing department, worked in the welding department, oil treater. I worked in the final assembly as an assembly mechanic. I worked as a stock chaser in the production department. I worked in the service department as a service man and also as service manager. Later as a pilot for Fleet Aircraft, a wholly owned subsidiary and since about 1935 as assistant to the manager up until August 1st of this year.

Q. Are you now a director of the company?

A. I was a director from 1936 until 1942, August 1st.

Q. Have you any connection with the Consolidated at the present time? A. None.

Q. What is your present position?

A. Other than a stockholder. I am a stockholder.

Q. What is your present position?

A. I work for Vultee.

Q. In what capacity? A. Vice President.

Q. And general manager?

A. No, I don't have that title—executive vice present. [676]

Q. Is the office of the president occupied at the present time?

A. No, they do not have a president.

Q. During the time that you were assistant to

(Testimony of David Girton Fleet.)

the manager at Consolidated, were you acquainted with the company's labor relations?

A. Yes, indirectly, up until about the Spring of 1941 and quite intimately connected with it from then on.

Q. When did the company move its plant from Buffalo to San Diego? A. In 1935.

Q. Can you give us any idea of how many employees it had when it first came to San Diego?

A. We had approximately 300 when we came to San Diego.

Q. And how many had you had in Buffalo?

A. Well, our peak in Buffalo was in the neighborhood of 2200. We had gradually gone down and we picked out key men to bring down to San Diego.

Q. Did the company bring its key men to San Diego when it moved here?

A. It did. All that would come. Of course a great many preferred to remain in Buffalo due to the fact that Mr. Bell, who had been our general manager, decided to start an organization of his own and he formed what is now Bell Aircraft Corporation and a great many of Consolidated employees remain- [677] ed right there in their same capacities that they had with us.

Q. I think you said that in the beginning of the Spring of 1941 you became intimately connected with the company's relations with its employees?

A. Quite intimately.

Q. With the labor union?

A. Quite intimately, particularly after the 12th

(Testimony of David Girtton Fleet.)

of June, 1941 when an agreement was signed. I didn't enter into the negotiations leading up to that agreement, however.

Q. When did the negotiations begin—strike that out—off the record, will you?

There had been an agreement between the company and Aircraft Lodge No. 1125 that was negotiated some time in 1939?

A. I will say "Yes," because I believe so, but I wasn't connected with the labor relations at that time.

Q. Well, did negotiations begin in the Spring of 1941 with reference to the new agreement?

A. Yes, that is correct.

Q. Did you take part in those negotiations?

A. I did not.

Q. Do you know how long they lasted?

A. I believe they lasted for a period of two months, approximately. [678]

Q. Did they result in the signing of an agreement on June 12, which has been put in evidence—I think it is Board's Exhibit 3?

A. That is my understanding.

Q. There was a provision in that original agreement which was then signed, as I understand it, as follows, and this is off the record. This is a leading question and I have asked the Labor Relations Board to bring down the copy of the agreement as it was originally signed, and if it doesn't conform with this I will agree to have it struck out. Strike all that out.

Q. (By Mr. Riggs, continuing) I show you a

(Testimony of David Girton Fleet.)

copy of an agreement between the Consolidated Aircraft Corporation and the International Association of Machinists, Aircraft Lodge No. 1125, dated June, 1941, and ask you if that was the agreement that was signed on that date?

(Handing paper to the witness.)

A. (No response.)

Q. While Mr. Fleet is looking at this I can state, Mr. Examiner, that I desire to show by Mr. Fleet the history of the company's relations with the labor union, which I think the Board has said is important and relevant in these cases, and have testimony particularly with reference to the classification of jobs to show that there has been negotiations with the Government and other aircraft companies with [679] relation to that matter, and stabilization of wages on the western coast, which is still going on.

The Witness: This appears to be the agreement that was signed.

Mr. Riggs: I would like to have that marked as Respondent's Exhibit 10.

(The document referred to was marked as Respondent's Exhibit No. 10 for identification.)

Trial Examiner Hektoen: How does it differ from the one we already have in evidence?

Mr. Riggs: I was just going to point that out.

The difference between this agreement as originally signed and the present agreement, which is in force, lies in paragraphs 2 and 3. The substance of this agreement provided for a minimum rate of pay

(Testimony of David Girton Fleet.)

of 55 cents an hour until the department establishes a higher minimum hourly rate under the provisions of the Walsh-Healy Public Contracts Act. That is the main difference in reference to paragraph 2.

And then paragraph 3 contains a provision for the establishment of a joint committee to review hourly wage rates and a provision for submission of disagreements to a master board. There is a 5 cent an hour increase to every employee effective May 3, 1941.

Trial Examiner Hektoen: Well, those are the two principal changes? [680]

Mr. Riggs: No, there is one here which follows.

Trial Examiner Hektoen: Just give me the paragraph number, will you?

Mr. Riggs: Paragraph 3 provides that in the event there is——

Trial Examiner Hektoen: I don't think you need to read it into the record, Mr. Riggs.

Mr. Riggs: That is the paragraph that I would like to read into the record.

Trial Examiner Hektoen: If you want to, you may go ahead.

Mr. Riggs: The main change in paragraph 3 is that:

“In the event standard rates of pay or wages shall be adopted for the aircraft industry by any executive order or ruling of the President of the United States, the National Defense Mediation Board or any other governmental board of authority, the rates

(Testimony of David Girton Fleet.)

of pay and wage rates herein provided for shall be superseded by such order or ruling.”

Trial Examiner Hektoen: Do you offer that?

Mr. Riggs: This is marked as Respondent's Exhibit 10 for identification. Yes, I offer it in evidence.

Trial Examiner Hektoen: Do you have any objection?

Mr. Harrington: I haven't seen it.

(Exhibit handed to Mr. Harrington.) [681]

Mr. Harrington: No objection.

Trial Examiner Hektoen: It may be admitted.

(The document heretofore marked for identification as Respondent's Exhibit 10, was received in evidence.)

Q. (By Mr. Riggs) Do you recall anything about a meeting of southern aircraft companies in May, 1941?

A. I am sorry, I didn't hear you.

Trial Examiner Hektoen: Read the question.

(Question read.)

The Witness: Yes. I believe that the aircraft companies met in May of 1941 to endeavor to work out some classifications. I think they met in Los Angeles.

Q. (By Mr. Riggs) Were you present at the meetings? A. No, I was not.

Mr. Ryan: Mr. Examiner, I can't see that the meetings between the various aircraft companies for the purpose of making uniform certain conditions

(Testimony of David Girtton Fleet.)

throughout the industry has any bearing on the issues in this case. The duty of this company to bargain with this union are not affected in any way.

Trial Examiner Hektoen: I take it we are not going into it because Mr. Fleet wasn't at the meetings.

Q. (By Mr. Riggs) Do you remember anything with reference to the North American Company happening in June, 1941?

A. Yes. North American had had a strike. [682]

Mr. Ryan: I object to that as immaterial.

Trial Examiner Hektoen: He may continue.

The Witness: I would just as soon strike that out if you prefer. I do recall that the Government and Labor and North American sat down to discuss their agreement and they arrived at a new minimum wage scale of 60 cents an hour with, I believe, automatic increases to 75 cents as a result of that hearing.

I believe that it was the Government's desire to endeavor to get all the Southern California aircraft companies together to see if they would not also put in a similar scale.

Q. (By Mr. Riggs) Do you know whether the aircraft companies did get together with reference to standard job classifications at the request of the Office of Production Management?

A. Yes. The work that had been started by the Committee in May was carried on at the request of the Government and was presented to the Govern-

(Testimony of David Girton Fleet.)

ment, I believe, in June or July of '41 at a meeting in Washington.

Q. Did you attend the meeting in Washington in July of 1941? A. I did not.

Q. Do you recall anything with reference to Douglas Aircraft's rate happening in August, 1941?

[683]

Mr. Ryan: I object to all this as immaterial.

Trial Examiner Hektoen: Is it leading up to this classification question?

Mr. Riggs: Yes.

Trial Examiner Hektoen: You may proceed.

Mr. Riggs: I intend to show that entire matter has been brought about at the request of the Office of Production Management and the War Production Board, and it would be impossible for any one aircraft company on the Pacific Coast to change the job classifications or rates higher than others under the conditions that the Government has laid down and requested

Trial Examiner Hektoen: Read the question.

(Question read.)

The Witness: May I refresh my memory here?

Trial Examiner Hektoen: Yes.

The Witness: According to the record that is in my file, Douglas Aircraft installed the 60 and 75 cent starting rate on August 8th.

Q. (By Mr. Riggs) Did the company or your father, Mr. Fleet, receive a telegram from Mr. Sidney Hillman about August 18, 1941?

(Testimony of David Girton Fleet.)

A. We received an invitation from Mr. Hillman to attend.

Q. Will you look through that file and see if you find a copy of that telegram? [684]

Trial Examiner Hektoen: Maybe we are agreed on what it said.

Mr. Riggs: Well, it invited this company together with other companies to attend a conference with reference to wage stabilization in Washington.

Mr. Ryan: We will take his word for that, if he says that. We don't need the telegram.

Trial Examiner Hektoen: All right, it is so stipulated.

Q. (By Mr. Riggs) I will show you a press release from the Office of Production Management, Labor Division, of August 15, 1941, and ask if that was sent to the company?

(Handing paper to the witness.)

A. It was evidently sent to us because we got it. It is in the file.

Q. Does that refresh your recollection as to who was invited to the conference?

A. Oh, I recall that the presidents of all of the aircraft companies in Southern California were invited to the conference.

Q. Will you state the names of the people who were invited?

Trial Examiner Hektoen: That is not necessary.

Mr. Riggs: I did not understand you.

Trial Examiner Hektoen: Isn't that sufficient?

(Testimony of David Girton Fleet.)

Q. (By Mr. Riggs) Were any of the labor representatives invited? [685]

A. Oh yes, there were the following: Richard Frankenstein, director of the aircraft division of the U.A.W.-C.I.O., Eric Peterson, vice-president I.A. of M.; W. J. Chudleigh, International Association of Machinists, San Diego; Dale O. Read, International Association of Machinists, Burbank; George Castleman, vice president of the International Association of Machinists, Los Angeles; Jimmy Goff of the United Aircraft Welders, Los Angeles.

Those were the labor people.

Q. Did you attend the conference?

A. I did.

Q. Who else represented Consolidated?

A. Mr. Wiseman and Mr. Bowers.

Q. And where did the conference convene?

A. The conference convened in the Office of Production Management Building—I don't know what the name of the building was—Social Security, possibly,—maybe some of the union members could help me on that.

Trial Examiner Hektoen: Well, that is all right.

Q. (By Mr. Riggs) Who presided over the conference? A. Dr. Lubin really presided.

Q. What was the subject discussed at the conference?

A. Well, the conference broke up. The International Association of Machinists was there in body and willing to sit in joint session with management,

(Testimony of David Girton Fleet.)

but the C.I.O. refused [686] to do so, therefore, the conference really broke up.

Q. What was the purpose of the conference?

A. The purpose of the conference, as explained by the Government representatives, was to effect an agreement between the various unions and managements representing the Southern California aircraft companies, which would lead toward stabilization of wage rates and employment in the aircraft industry. [687]

Q. Did that include classification of jobs, wage rates, working hours, and so forth?

A. I believe that everybody had that in their minds, management did, and I think labor did, and I am sure Government did.

Q. Were those things discussed at all either by the chairman announcing the purpose of the conference, or at the conference itself?

A. To tell the truth, the conference really recessed the first day, because we were waiting on Mr. Frankenstein of the C. I. O. to come, and the second day when Mr. Frankenstein came, he said he wasn't interested in sitting down with a stabilization meeting with representatives of the A. F. of L. and with the Government, and he said he was going back, and the conference broke up.

Q. Did the conference have a report from the regional committee of the Southern Aircraft Companies with reference to classification of jobs?

A. I believe that was presented by management to the conference. I can say there, when the confer-

(Testimony of David Girton Fleet.)

ence broke up, negotiations between those unions whose agreements had expired continued, and I believe the A. F. of L. sat in with Lockheed and Vultee, I believe, sat in with its C. I. O.

Q. Was the conference adjourned sine die, or subject to call, after the new Lockheed-A. F. of L. agreement had been [688] concluded?

A. What does sine die mean?

Q. Well, without date.

A. I would say it was sine die, then.

Q. Had the Lockheed agreement with the American Federation of Labor expired at that time?

A. Yes, I believe it had.

Q. Do you know when that was signed between Lockheed and American Federation of Labor, Lodge 727?

A. I don't recall.

Q. Will you refresh your recollection on that?

Trial Examiner Hektoen: Whatever date you say we will take. When was it?

Mr. Riggs: The 12th of September.

Trial Examiner Hektoen: All right.

The Witness: That is what this said.

Mr. Harrington: What year, Mr. Riggs?

Mr. Riggs: 1941.

Q. (By Mr. Riggs) What did that provide, Mr. Fleet?

A. Lockheed agreement was signed with Lodge 727 providing for 50 to 75 cents starting rate, and 10 cent blanket increase retroactive to July 1. This says 10 per cent, but I am sure it was wrong.

Q. What was it? A. 10 cents. [689]

(Testimony of David Girtton Fleet.)

Q. 10 cents instead of 10 per cent?

A. Right.

Q. Did that bring about any further negotiations between Consolidated and Aircraft Lodge 1125?

A. Yes. Our agreement had not expired. It was in full force and effect. However, management realized we couldn't long continue to get men if we didn't do something about our starting rates, and we weren't particularly reluctant to raise them. However, we didn't particularly feel that when our contract was in effect that we were obligated to put in any 10 cent blanket increase.

Q. On September 17 did you receive a letter from the union with reference to this matter? Will you look through your file?

Trial Examiner Hektoen: Just say "yes."

The Witness: Yes.

Q. (By Mr. Riggs) Will you produce a copy of the letter from the file?

A. I hope I have better luck finding it than you did on that telegram. Here it is.

Q. Is this a copy of the letter you received at that time? A. That is right.

Mr. Riggs: I offer in evidence the letter dated September 17, 1941 to Mr. Rubin H. Fleet, president of Consolidated Aircraft Corporation, signed: W. J. Chudleigh, [690] President, Aeronautical Mechanics Lodge 1125.

(The document referred to was marked as Respondent's Exhibit No. 11 for identification.)

Mr. Harrington: May I have a recess?

(Testimony of David Girton Fleet.)

Trial Examiner Hektoen: Yes.

(Short recess)

Trial Examiner Hektoen: We will come to order, please.

Mr. Riggs: Is there any objection to this, Mr. Harrington?

Mr. Ryan: No objection, inasmuch as it is a letter from Chudleigh to the company.

Trial Examiner Hektoen: Respondent's Exhibit 11 is admitted without objection. Right?

Mr. Ryan: Correct.

(Thereupon the document referred to, heretofore marked as Respondent's Exhibit No. 11 for identification, was received in evidence.)

RESPONDENT'S EXHIBIT No. 11

Letterhead of

Aeronautical Mechanics Lodge 1125

A.F. of L.

1054 - 3rd

San Diego, California

September 17, 1941

Mr. Reuben H. Fleet

President, Consolidated Aircraft Corp'n.

Lindberg Field

San Diego, California

Dear Sir:

Pursuant to the action of Aeronautical Mechanics Lodge 1125 at special meetings held September 16th

(Testimony of David Girton Fleet.)

and 17th, and under the provisions of section 3, paragraph 3, page 8 of our agreement dated June 12th, 1941, and in lieu of the agreement signed between the Lockheed-Vega Company and Lodge 727 of the Aeronautical Mechanics, and approved by the Office of Production Management, Army and Navy, it is requested that the minimum wage scale at Consolidated Aircraft be established at sixty cents (60c) per hour, increasing five cents (05c) per hour every four (4) weeks until seventy-five cents (75c) per hour is reached; that a ten cent (10c) blanket increase be granted; all increases to be retroactive to the first full pay in July.

Further, in accordance with the action of the membership of Lodge 1125, a reply is desired within twenty-four (24) hours.

Yours very truly,

/s/ W. J. CHUDLEIGH

W. J. Chudleigh

Pres., Aeronautical Mechanics
Lodge 1125, I. A. of M.

Q. (By Mr. Riggs) Just to hurry this along, Mr. Fleet, and summarize the matter, this is a letter from the union which states in substance: In lieu of the agreement signed by the Lockheed-Vega, Lodge 727, requesting that a minimum wage at Consolidated be established at 60 cents an hour, increasing 5 cents an hour every four weeks until 75 cents an hour is reached, and that a 10 cent blanket increase be granted. [691]

(Testimony of David Girton Fleet.)

After this 60 cents an hour and 5 cents per hour every four weeks until 75 cents an hour is reached, there is a penciled line and annotation "O. K." Do you know whose handwriting that is?

A. That is Major Fleet's.

Q. In other words, your father agreed to increase the minimum rates to equalize those already agreed upon by Lockheed-Vega?

A. It may not have been agreed so far as the union was concerned, but in his own mind he thought it O. K.

Q. Did he make any counterproposal within the next day or two to the union? A. Yes.

Q. Do you remember what they were?

A. I believe he agreed to put in those higher starting rates, and to put in a 5 cent blanket increase effective the first part of July. I don't know the exact date, in lieu—of that later move, that was in lieu with what we call the jackpot provision which provides for 5 cents an hour times each employee to be put in the jackpot and then be distributed through collective bargaining to the two-thirds of the most deserving employees.

Q. Had that provision been in the agreement as negotiated on June 12? A. Yes, it was. [692]

Q. Did the union desire a raise of 10 cents an hour in that letter?

Mr. Ryan: The letter speaks for itself.

Trial Examiner Hektoen: It did, did it not?

Mr. Riggs: Yes.

The Witness: Yes, that is correct.

(Testimony of David Girton Fleet.)

Q. (By Mr. Riggs) Was the company willing to agree to that?

A. No, the company offered a five cent blanket increase.

Q. And that is what they had already increased, five cents in May, and 5 cents in July?

A. That is correct.

Q. Did the increase of 10 cents an hour bring the employees above the Lockheed-Vega rate?

A. That was my understanding, and our contention.

Q. What happened after that, Mr. Fleet?

A. Negotiations broke down, because we weren't able to agree upon what we would do. Mind you, the agreement was still in effect, and the union was arguing their case on the ground that the standard rates of pay had been set by government agencies. We contended they had not been set, because the stabilization conference had broken up and while some of the companies whose agreements had expired had actually put in this new 60 and 75 cent rate, all of them had not, and no government dictate had come saying they were standard rates; or, we were unable to find out from the president or from the [693] government agencies whether or not he had established a standard rate, and we didn't get any response from the president. Oral responses from the Army and Navy people said that they knew of no such rates.

Q. Then what happened after that?

A. The negotiations finally got to the boiling

(Testimony of David Girtton Fleet.)

point and the union took a strike vote which, in my opinion—and when I say “in my opinion,” now, I am not necessarily representing the views of the company—it really was a violation of our contract, in that the contract provided there was to be no strikes or lock-outs. Of course, one didn’t actually occur, but the contract was good for two years, or the duration of the emergency, and we had a regular grievance procedure, an arbitration procedure set up by which any disputes would be submitted to arbitration.

I felt that was the way it should have gone. But union took a strike vote, undoubtedly in an endeavor to get before the National Defense Mediation Board.

Q. Did anyone on behalf of the company suggest arbitration of the question to the union?

A. Yes.

Q. Under the terms of Section 23 of the agreement?

A. Yes.

Q. Who did?

A. I think Major Fleet suggested that. [694]

Mr. Ryan: Was that before or after the strike?

The Witness: That was before the strike vote.

Q. (By Mr. Riggs) That was before the strike vote?

A. Yes.

Q. Had it been rejected by the union at the time it took the strike vote?

A. Yes.

Q. What happened next, Mr. Fleet?

A. The strike was voted, was held, and as I

(Testimony of David Girton Fleet.)

understand it, it was in the affirmative that they should strike.

Q. That is, unless they got the 10 cent blanket increase?

A. The demands they were making.

It was then certified to the National Defense Mediation Board, and hearings were then held later on, during the year, the latter part of September, as I remember it, at which——

Q. Where were those hearings held, and who attended?

A. In Washington. On behalf of the company: Major Fleet, Herman Wiseman, I think Bowers, and myself attended. On behalf of the union I think Mr. Chudleigh, who, I believe, was the president, Don Wilkerson—you were there, weren't you, Don? Ken Phillips; I don't remember just who.

Trial Examiner Hektoen: There were several representatives.

The Witness: Several representatives from the local lodge. [695]

Q. (By Mr. Riggs) Did the National Defense Mediation Board hand down a decision on the occasion, or was a compromise reached?

A. We didn't get any formal written decision from the National Defense Mediation Board, I don't believe. We met for several days with offers and counter-offers going back and forth, and we finally agreed to make a 13-cent increase, and at that time the jackpot wage rate provision was washed out of the agreement, and in lieu thereof

(Testimony of David Girtton Fleet.)

we had a regular six months review of each individual employee upon the completion of his six months anniversary.

I think that is correct. [696]

Q. Well, were those sections, Sections 2 and 3 of the agreement as previously existed then amended as of April 18, 1941, as they now exist in Board's Exhibit No. 3?

Trial Examiner Hektoen: October 18th.

Mr. Riggs: October 18th, 1941.

The Witness: Yes, that is my memory.

Trial Examiner Hektoen: That is correct.

The Witness: And a 13 cent blanket increase was put in, retroactive, I think, to August 9th.

Q. (By Mr. Riggs) Do you recall shortly after—just one moment, Mr. Fleet. Do you recall after war was declared on December 7th, whether shortly thereafter there was a blackout at San Diego?

A. Yes, I believe there was.

Q. Do you recall when it was?

A. No.

Q. Was it December 10 or 11th?

A. It might have been.

Q. Well, I will show you this petition to the management of the Consolidated Aircraft Corporation, dated December 11, 1941, and ask you if that refreshes your recollection as to when that blackout took place?

(Handing paper to the witness.)

A. Yes; it definitely was on the night of December 10th.

(Testimony of David Girton Fleet.)

Q. Do you remember how long it was? [697]

A. I do not.

Mr. Riggs: I would like to offer this in evidence.

The Witness: It must have been long enough to have incurred considerable loss of man hours anyway, according to this.

Q. (By Mr. Riggs) Is that a copy of a petition that was presented to management by various or certain employees of Consolidated?

A. Yes, I think it was.

Mr. Riggs: I would like to offer just one of these in evidence, Mr. Examiner, as a sample to show the nature of the petition that was presented and not necessarily as to the number of people that signed it or the names of them.

(Handing paper to Mr. Harrington.)

Mr. Harrington: I have no objection to it, but I don't think it is material.

Mr. Riggs: We will have just one marked, one dated December 11, 1941, addressed to the management of Consolidated Aircraft Corporation, "Copy to the Fourth Interceptor Command, Civilian Defense Office," and attached thereto is a sheet bearing penciled signatures. The signatures I do not think are material except to add to the point that the petition was signed by various employees.

Trial Examiner Hektoen: By numerous employees.

It may be marked and received in evidence. [698]

(Testimony of David Girton Fleet.)

(The document referred to was marked as Respondent's Exhibit No. 12, and received in evidence.)

RESPONDENT'S EXHIBIT No. 12

December 11, 1941

Management of Consolidated Aircraft Corporation:
Copy to:

4th Interceptor Command
Civilian Defense Office

The attached sheets contain signatures of;—Employees on the night shift of Consolidated, Plant number 2, demand that the necessary steps be taken immediately for the complete painting of all windows, roof, skylights, and white stucco walls throughout the entire plant. We see no necessity for there being a repetition of the loss of man hours such as there was during the black out of the night of December 10, 1941.

It is the will of the undersigned to continue the work, during these black outs, which is so necessary and vital to the defense of our country.

The following gladly volunteer their time to perform this task during daylight hours, but we again demand immediate action.

1. E. G. McCleave	58-4013
2. E. C. Gonzales	68-4447
3. A. A. Zdzieblowski	58-4110

(Testimony of David Girton Fleet.)

4.	B. G. Gutinsohn	52-3117
5.	R. L. Fitzpatrick	58-4304
6.	William M. Flenniken	58-4089
7.	George F. Bailey	58-4000
8.	Joseph D. Thacker	67-1031
9.	P. L. Mize	67-1062
10.	E. A. Day	67-1007
11.	P. E. Ballard	67-1065
12.	Robt. Shead	
13.	J. E. Horner	58-4451
14.	F. L. Fuller	58-4379
15.	R. L. Abel	67-1011
16.	Burl Cowan	58-4100
17.	Frank J. C de Baca	58-4230
18.	John G. Bloomfield	58-4448
19.	Alvin F. Nemir	58 4453
20.	H. F. McGlynn	67-1044
21.	Guy Benson	67-1021
22.	Kenneth Kelly	67-1050
23.	Raymond Thiel	67-1127
24.	Ewart Albert Swger	67-4712
25.	C. Bonar Lockrem	67-1087
26.	John J. Riddle	67-1052
27.	W. T. Russell Jr.	67-1097
28.	Dewey Smith	67-4201
29.	W. R. Seymour	67-1076
30.	J. H. Bell	67-4132
31.	P. J. Ashton	67-4562
32.	F. Westhoff	67-4096
33.	C. J. Nilles	67-4015
34.	F. I. Garrison	67-4025

(Testimony of David Girton Fleet.)

35.	H. R. Hagen	67-5010
36.	E. H. Loewenstein	67-4818
37.	E. C. Travistum	67-4700
38.	Al Reiter	67-4112
39.	D. A. Dinkins	67-4954
40.	R. C. Martin	67-4118
41.	C. W. Mann	67-4774
42.	L. C. Ackerman	67-4003
43.	W. W. Cummings	67-4918
44.	Fred P. Wilson	68-4151
45.	J. H. McDade	67-1096
46.	D. L. Benson	67-2004
47.	C. C. Walker	67-3051
48.	M. C. Rotter	67-4131
49.	V. Friedman	67-3025
50.	J. H. Jones	67-4199
51.	W. D. Dolan	67-1093
52.	R. L. Sanner	67-4308
53.	D. M. Claibourne	67-4787
54.	C. Martens	67-3022
55.	Wm. C. Ewert	4043-67
56.	Gene Moon	67-1032
57.	T. S. Smart	67-4009
58.	P. Madsen	67-2006
59.	Paul Dixon	58-4286
60.	R. L. Walker	58-4388
61.	Bill Hill	67-1045
62.	T. B. Jensen	67-3017
63.	C. W. Brown	67-3027
64.	C. C. Pyle	
65.	L. B. Updegraff	

(Testimony of David Girton Fleet.)

66.	R. Haffey	1005-67
67.	S. Pagluiso	3047-67
68.	F. Hudson	2009-67
69.	D. Queen	4566-67
70.	D. Peterson	4560-67
71.	Bill Magruder	1114-67
72.	Loyd D. Stokes	4808-67
73.		
74.	Bert Calnert	4373-67
75.	Harold A. Koch	4514-67
76.	Alfred H. Landers	4517-67
77.	L. D. Lessenger	4205-67
78.	T. C. Paige	5020-67
79.		
80.	R. F. Tesh	4392-67
81.	L. C. Crowell	4184-67
82.	Preston Banks	67-4575
83.	F. E. Curtin	67-5015
84.	Orin K. Hand	67-5027
85.	John K. McDonough	67-4394
86.	R. A. Hullt	4334-67
87.	Raul Lopez	67-5019
88.	R. D. Veatch	4866-67
89.	Fred Rodly	67-5030
90.	Lee Martin	67-5021
91.	David L. Petty	67-5045
92.	Ray C. Butler	67-5017
93.	P. H. Shepherd	4207-67
94.	O. T. Floodberg	4204-67
95.	Edward Bodnar	No. 67-5016
96.	Thomas R. Copeland	67-4776
97.	S. B. Carmen	67-4481

(Testimony of David Girton Fleet.)

98.	George Gould	67-4972
99.	K. A. Lauge	
100.	Robert Gozelle	67-4834
101.	A. K. Ambrose	4220-67
102.	A. G. Cook	4324
103.	A. Sopko	5048
104.	J. Leonard	4944
105.	C. L. Huffman	52-3129
106.	Boyd E. Roy	67-1126
107.	R. H. Hay	58-2056
108.	A. L. Sutton	58-2097
109.	Dean Whipkey	58-2059
110.	E. N. Gardner	60-2145
111.	J. T. Jackson	58-2090
112.	George L. Howard	67-1075
113.	John Robert	58-2096
114.	Dale H. Freeman	8-2221
115.	H. H. Collings	67-4016
116.	N. E. Westover	67-1008
117.		
118.		
119.		
120.		
121.		
122.		
123.		
124.		
125.		
126.		
127.		
128.		

(Testimony of David Girton Fleet.)

129.

130.

131.

132.

133.

134.

135.

136.

137. R. R. Page 4532-67

138. R. Snyder 4524-67

139. L. D. Shane 4367-67

140. Farris O Bryan 4976-67

141. P. D. Mueller 4381-67

142. Harlie A. Varner 5036-67

143. I. L. Unroe 4233-67

144. George Flood 4812-67

145. Frank Kestel Jr. 4265-67

146. Hans Mattenklodt 4437-67

147. Robert Montgomery 4734-67

148. C. F. W. Brown 4986-67

149. Ellsworth A. Ferry 5043-67

150. Oscar D. Kemp 4603-67

151. Irvin Melvin 5051-67

152. D. K. Crawford 4039-58

153. E. E. Basich 4901-67

154. J. E. Kestel 4961-67

155. W. C. Meeks 4984-67

156. James Hunter 4819-67

157. D. A. Peppler 4487-67

158. C. G. Fleming 5022-67

159. G. H. Bartole 4726-67

(Testimony of David Girton Fleet.)

160.	G. R. Knorr	5052-67
161.	P. D. Foubert	4835-67
162.	R. Wylil	4105-67
163.	R. E. Galligo	5037-67
164.	R. O. Lindstrom	4788-67
165.	J. R. Brower	4477-67
166.	C. E. Goude	3034-67
167.	O. L. Harwell	4398-67
168.	S. L. Sundine	4701-67
169.	J. L. Burdette	4479-67
170.	B. G. Wood	4256-67
171.	O. S. Lowers	4168-67
172.	E. P. Martin Jr.	4182-67
173.	H. E. Bouteiller	4028-67
174.	R. D. Johnson	1048-67
175.	W. R. Farmer	4027-67
176.	F. J. Hodges	4505-67
177.	G. Graustedt	3004-67
178.	E. J. Cusuack	4014-67
179.	B. S. Wasson	4930-67
180.	R. H. Richardson	4029-67
181.	R. L. Ousley	4668-67
182.	P. J. Tyll	4121-67
183.	R. R. Rummel	4755-67
184.	[Illegible]	4854-67
185.	T. L. Ferris	4330-67
186.	J. R. Harris	4177-67
187.	G. G. Ellison	4325-67
188.	F. O. Fleck	4061-67
189.	J. P. Prichtel	4497-67
190.	F. A. Bessey	60-2012

(Testimony of David Girton Fleet.)

191.	D. G. Burton	67-4390
192.	B. A. Buffat	60-2016
193.	K. M. Davis	67-4020
194.	R. M. Fanning	67-4266
195.	J. E. Dopp	67-4491
196.	B. C. Barrett	67-4075
197.	W. R. Stone	67-4846-67
198.	D. C. Wesley	4339-67
199.	Maxwell	4005-67
200.	R. W. Tidball	4077-58
201.		

Q. (By Mr. Riggs) At the time this petition was signed were the windows and the roof and the skylights of the company's plant all glass?

A. Yes, sir.

Q. Did the company have a force of painters in a painting department?

A. Yes, sir.

Q. Do you recall whether a bulletin was issued on December 13, 1941, subsequent to the receipt of this petition, by Mr. Laddon with reference to working on Sunday?

A. I do not.

Q. You don't recall that bulletin?

A. No.

Q. Or the circularization of a petition among the employees stating that those that wanted to could work for nothing, or a petition by which they requested the management to let them work at time and a half?

(Testimony of David Girton Fleet.)

A. I remember something of that nature.

Mr. Riggs: The point I am leading up to, Mr. Examiner, is that one of the departments which requested to work was the painting department. You recollect one painter testified on that here?

Trial Examiner Hektoen: Yes. [699]

Mr. Riggs: And it has been conceded on the record that certain men did work and they did receive double time so I will drop that subject.

Trial Examiner Hektoen: Very good.

Q. (By Mr. Riggs) Mr. Fleet, during the period, say from the first of January, 1942, were you very active in the negotiations with the union?

A. Yes, quite active.

Q. Who represented the company with you?

A. Mr. Wiseman and Mr. Bowers.

Q. And in your meetings with the union can you say whether or not most or all of you were present?

A. At a number of meetings the three of us were present and at other meetings I think Wiseman and Bowers were present.

Q. And do you recollect what those meetings were about? Can you just state the various subjects as briefly as you can?

A. We wanted to work out a better grievance procedure. That was one of the subjects.

I am sorry, but I have looked at so many agreements in the last 30 days due to the fact that my new job has four different divisions, all having separate union contracts, that I am all gummed up on union clauses and provisions and everything, so

(Testimony of David Girton Fleet.)

without refreshing my memory by looking at the file I couldn't remember all the subjects. [700]

Mr. Riggs: Maybe Mr. Harrington won't mind if I suggest them to you.

Q. (By Mr. Riggs) Was the question of the 22 men who had been hired out of the state and had been put to work at rates without consultation with the union discussed?

A. Yes, that was one.

Q. And that the inspection department had given interim rate increases to various employees without consultation with the shop committeemen?

A. Correct, yes.

Q. And was there any question or negotiations or talks with reference to job classifications?

A. Yes, that is true. Not negotiations, necessarily, I wouldn't say, but certainly discussions.

Q. And did those discussions cover the previous grounds that you have gone over to some extent as to the wage stabilization attempts made in the previous summer?

A. I don't know whether we dwelt much on that or not. The union wanted to sit down and discuss the rates for the various classifications in the shop.

Q. And what did you say with reference to that?

A. Our contract provides—their contract provides for an individual review of each man every six months, which we have carried out and I suppose they are now carrying out.

The rates and the classifications that were estab-

(Testimony of David Girton Fleet.)

lished [701] were for our guidance. We had been rapidly putting on men. Department heads had been up-graded. New foremen and so forth were made and we had two different plants to worry about, therefore, we had to have some guide, some scale of wages so that one foreman in Plant 1 wouldn't pay a man 10 cents an hour more than the equivalent work in Plant 2, so we used the rates that had been established by this Southern California Conference of Aircraft Manufacturers and used that as a guidance in our bargaining or negotiating with the union.

I believe there were quite a number of cases where a man's rate, or the rate that the union felt he should get, would bring him to the top, or past the top of what we had—what we were using as a guide. In that case we had procedure to take it up through the grievance procedure and into arbitration. I think probably some of those cases went to arbitration and have been undoubtedly settled by now.

Q. Do you recall the taking up with the union or talking about the Williamson case?

A. Williamson? The name is familiar but I don't remember what the case was about.

Q. Well, was a man that was fired some time in the spring, where the company claimed he was making a speech about the company being run by Nazi sympathizers discussed?

A. Yes, I think I remember that—that case. I

(Testimony of David Gorton Fleet.)

wasn't [702] intimately connected with it. Didn't it take place at Plant 2?

Q. I think it did, yes.

A. Yes, I remember that.

Q. Well, did you have any negotiations with the union with reference to his reinstatement?

A. I may have had. I don't recall.

Q. Well, do you remember the case of a Mr. Fisher who was discharged? A. Yes.

Q. Did you have any negotiations with the company with reference to that?

A. With the union?

Q. With the union with reference to his reinstatement?

A. Yes, we discussed it quite a number of times. Never got together on it. [703]

Q. Do you remember meeting with Mr. William R. Walsh in the U. S. Grant Hotel?

A. Yes, on the Fisher case; I remember that.

Q. On the Fisher case, together with representatives of the Union and of the Company?

A. Yes, I do.

Q. Did you, subsequent to that meeting, take up with any of the foremen of the company whether they would be willing to have Mr. Fisher back in their department?

A. I discussed it with several people yes, including Kelley, I believe George Newman, prior to the time he went over to Fort Worth, and I think I talked to his previous foreman in Plant 1. I don't remember who it was. It may have been——

(Testimony of David Girton Fleet.)

Q. Was it Liegal? A. No.

Q. Mineah?

A. No. It may have been—I may have talked to Jack Waskey about him. Waskey was a former president of the union who was then a foreman and I believe Fisher may have worked for him. I may have asked him about him.

Q. Do you recollect whether you talked with more than one foreman in any of the departments about reinstatement?

A. No, I don't.

Q. Do you recollect whether you talked to Mr. Mineah, who [703-A] was his foreman when he was discharged?

A. Yes, sir. I don't recall any conversations, although I may have.

Q. In July, 1942, was this question of wage stabilization taken up again?

A. July, 1942?

Q. Yes, this last July?

A. Yes. We had further discussions on that.

Q. And at whose invitation—by whose invitation was this taken up?

A. The Government's.

Q. The War Production Board?

A. That is correct.

Q. Was there a meeting held in Los Angeles with reference to the matter?

A. Yes; there was, in Hollywood.

Q. Who represented the Government?

A. You'd better give me the list of names.

(Testimony of David Girton Fleet.)

(Handing paper to the witness.) Wendell Lund. He came there to the first meeting and opened the meeting, I believe, and Paul Porter presided as the chairman.

There were representatives of the A. F. of L. and the C. I. O. present. Mr. Brown, who is here now, was one of the A. F. L. representatives and I think Pyett was alternate. I believe Pyett is the president of the Local, and, let me [703-B] see, George Castleman was another representative of the A. F. of L.

Trial Examiner Hektoen: That is sufficient.

The Witness: I don't remember the rest of them.

Q. (By Mr. Riggs) Any C. I. O. men present?

A. Yes, Montgomery and three or four others.

Q. What representatives were present — were there representatives present from the management of the aircraft companies operating in Southern California?

A. Yes. Each company was represented by one man and an alternate.

Q. Would you give me the names of the companies?

A. Boeing, North American, Northrop, Vega-Lockheed, Vultee, Consolidated, Douglass and Ryan.

Q. And who represented Consolidated?

A. Consolidated was represented by Mr. Beck, Mr. Person, and myself.

Q. What happened at that conference?

(Testimony of David Girton Fleet.)

A. At this conference the C. I. O. was willing to sit down in joint session but the conference broke up, as a result, probably, of disagreement between government agencies more than anything else. Management and labor were willing to bargain and negotiate but the statements made by representatives of the Government really led to the breaking up of the conference. And in the paper I read that there have been [703-C] several tentative dates set for reconvening of the conference.

It was adjourned sine die, or whatever that means. I guess subject to call. But so far nothing has been done. [703-D]

Q. Was the matter of job classifications and so forth, one of the purposes of that conference?

A. Yes. That was what we had in our minds, getting into the job classifications, setting up rates for the various jobs, but we never did get that far. That was probably the prime point on the agenda, but we never got to it.

Trial Examiner Hektoen: It was never reached?

The Witness: No.

Q. (By Mr. Riggs) The disagreement between the government agencies as to jurisdiction was between the OPA and the War Man Power Commission, wasn't it?

A. Not too much Mr. Porter's side.

Q. What was his side?

A. He was supposed to be the chairman there.

Q. As such he was supposed to be sitting with

(Testimony of David Girton Fleet.)

the government agencies on both sides, including the Army and Navy?

A. He was sort of hemmed in, too, not to mention management and labor.

Q. Now, can you state whether it would be, aside from any provisions of our contract, whether it would be practical under the present circumstances for any one aircraft company in the Southern California area, to sit down and arrange with labor, classification of jobs, rates of pay, and so forth, without the concurrence of the entire aircraft industry?

Mr. Ryan: Mr. Examiner, I object to that as a conclusion. It is opinion evidence, and not of any value in determining [704] the issues in this case.

Mr. Riggs: Of course it is opinion evidence, and if it is of no help, I will withdraw the question. It seems to me I have brought out enough to justify it.

Trial Examiner Hektoen: I would be glad to have Mr. Fleet's opinion, but it is to be understood it is his opinion, of course.

Mr. Riggs: Certainly, certainly.

Trial Examiner Hektoen: What do you say?

The Witness: You said "practical" and not "impossible," didn't you? It wouldn't be practical. It would not be practical at this particular time.

Mr. Riggs: I have nothing further from Mr. Fleet. I beg your pardon. There are two more questions.

Q. (By Mr. Riggs) Was the question of the 22

(Testimony of David Girton Fleet.)

out-of-state hires settled with the union to its satisfaction?

A. Yes. As a result of a meeting with Harry Malcolm, the conciliator, we agreed to make certain adjustments in pay back to the time those men had been cut, two of them had actually left the employ of the company, and we sent them checks to their residence; one we were unable to locate, and couldn't send him a check.

We also agreed to change our—to really go over to the other side of this matter of consulting the union committeemen before putting in an interim increase, and a bulletin was put [705] out to our foremen that they were definitely to follow certain steps.

Q. I think that bulletin of Mr. Leigh's is in evidence here. Do you know of any other question that was taken up by you and Mr. Wiseman and Mr. Bowers with the union that hasn't been settled?

A. That has not been settled?

Q. Outside of this question of job classification which we have discussed.

A. I don't know whether the Fisher case has been settled.

Q. How about the change from two shifts to three shifts? Was that discussed with the union representatives before it was effected?

A. Oh, yes. There has been considerable discussion about three shifts, I think, in connection with the work week, I believe, and the pay that is paid to people on various shifts, yes.

(Testimony of David Girton Fleet.)

Q. Do you recall whether the work week and the pay that was to be received by the shifts starting at midnight on Saturday was discussed with the union representatives?

A. Yes. We talked back and forth, and so forth, and never were able to agree upon it. The company, management, contended that the men working that shift should be paid time and a half instead of double time, and the union, I believe, asked for double time. [706]

Q. How often was that — was the question of wages on that shift discussed with the union?

A. Wages on that shift?

Q. Yes.

A. Individual wages?

Q. No, whether they should get time and a half or double time. Was that a subject of discussion with the union?

A. Yes. I think it was probably on the agenda and discussed at the meetings with Harry Malcolm too. I don't think we ever arrived at any solution to it.

Q. Has it ever been submitted to arbitration?

A. I don't know. It hasn't been, I don't believe, up to the time I left the company.

Mr. Riggs: That is all I have.

Cross Examination

Q. (By Mr. Harrington) You have stated in August of 1941 Douglas Aircraft installed 60 and 75 cent starting rates. Did Douglas have any agree-

(Testimony of David Girton Fleet.)

ment with any union? A. No.

Q. Did those meetings that you have testified to in Washington and in Hollywood, and those meetings with the different government agencies, did any of those things supersede collective bargaining as a means of arriving at things?

Mr. Riggs: I will object to that.

Trial Examiner Hektoen: Read the question.

[707]

(The question was read.)

Mr. Harrington: I asked him——

Trial Examiner Hektoen: I will sustain the objection to that.

Q. (By Mr. Harrington) Have these wage classifications and rates of pay been put into effect at Consolidated?

A. We use them, yes, for our own guidance. That is, I think Consolidated does. Where I say "we," I mean "Consolidated." I am no longer with them.

Q. They were drawn up without consulting with the union?

A. Yes, no consultation was had with the union so far as I know. I don't believe the companies in Los Angeles that drew up those consulted the unions.

Q. Has not Vultee negotiated wage rates and classifications with the union there?

A. I do not know, but they have in some plants. You are talking about Vultee Field at Downey?

(Testimony of David Girton Fleet.)

Q. Yes. Is that where you are located?

A. I can't answer that question. That is the home office, but they have four different plants.

Q. On this petition, Respondent's Exhibit 12, who sponsored that petition, do you know?

A. I do not know.

Q. I believe you said it would be impractical to set classifications at this time. [708]

A. For any of the aircraft companies to set them without consultation with others, and the government. That was the way I understood the question. I may have been wrong.

Q. Do you know if the classifications and rates in use at Consolidated are the same as those in use at other aircraft plants?

A. I think they are practically identical in all respects. There are probably some variations. In fact, I know of some variations.

Trial Examiner Hektoen: But they are minor?

The Witness: They are a minor percentage, but not minor variations. They are a minor percentage of the total number of jobs, but there are some fairly important differences.

For instance, toolmakers we pay \$1.50 top, I believe, so far as the classification is concerned; and I believe the other companies pay \$1.40.

Q. With respect to the third shift operation paying time and a half instead of double time, isn't it a fact the company put that into operation without consulting the union?

(Testimony of David Girton Fleet.)

A. I don't think so. You are talking about the shift or rate?

Q. No, I am talking about paying time and a half instead of double time for that Sunday shift.

[709]

A. It was our interpretation of the agreement, yes, if you want to say we put into effect our interpretation of that agreement.

Q. Without consulting the union?

A. Yes, just put it into the pay checks. I think it was some time after that the union objected to it, I think.

Q. Do you know whether or not Lockheed or Vega negotiated their job classifications with the unions in those plants?

A. I don't know whether they actually negotiated all the classifications, but I do know they discussed it with them; anyway, that is my understanding.

Mr. Harrington: No further questions.

Redirect Examination

Q. (By Mr. Riggs) You say you have been acquainted with a number of union agreements. I want to ask you if there are not two types: One providing for the job rating, or establishing a definite rate for a job which might be either a maximum or minimum, or just one rate; and the other providing for man rating, the individual man rating as provided for in Consolidated.

A. Yes, I have seen both types.

(Testimony of David Girton Fleet.)

Q. Have you ever seen one which contained both provisions?

A. Not exactly that way. I would like to explain it this way: The agreements with which I am familiar, they have classifications that have been agreed upon between management [710] and labor to establish definite rates or rate ranges for given jobs, and if labor doesn't agree, say, with the rate that is paid a man on any particular job, where there is a rate range, they have, of course, the privilege of putting in a grievance in the regular manner, and it is adjusted through grievance procedure, probably through arbitration if a clause is provided.

Ours is a little unique. I haven't run into one like ours. It provides, as I understand, for this individual bargaining on each man. Before I ever came into the labor picture I understand we had held these reviews with the union being represented, and the management, and they sat down and discussed each man.

Q. And in any event, in any disagreement, arbitration is provided for? A. Yes.

Q. As to any individual?

A. That is correct, as to any individual.

Mr. Riggs: That is all.

Mr. Harrington: No questions.

Trial Examiner Hektoen: Thank you very much, Mr. Fleet.

(Witness excused.) [711]

LAWRENCE ROBERT BECK,

a witness called by and on behalf of the Respondent, being first duly sworn, was examined and testified as follows:

Direct Examination

Q. (By Mr. Riggs) Give your full name and address to the stenographer.

A. Lawrence Robert Beck, 1024 Cypress Avenue, San Diego.

Q. Are you employed by Consolidated, Mr. Beck?

A. Yes, sir; that is right.

Q. When did you enter their employ?

A. The latter part of March, 1942.

Q. At that time was there any wage review board in session?

A. No, I believe the wage review board started the first of April.

Q. So that you have been an employee of the Consolidated Corporation all the time that the wage review board—ever since it started in April up to the present time?

A. Yes, that is right.

Q. Have you been a representative of the Consolidated Aircraft Corporation upon the board?

A. Yes, I have.

Q. Have you been all the time or just occasionally?

A. Occasionally I have participated on the lower board and appeal board and in preliminary arbitration board.

(Testimony of Lawrence Robert Beck.)

Q. What is the title of your job? [712]

A. I am manager of the wage and salary administration division.

Q. Prior to coming to Consolidated by whom were you employed?

A. Lockheed-Vega Aircraft Corporation.

Q. And what was your job with them?

A. I was chief job analyst and then manager of the industrial relations research department.

Q. While you were with Lockheed-Vega did you have anything to do with the preparation of a job classification report in consultation with other aircraft companies?

A. Yes.

Q. What did you have to do with that?

A. Well, in the spring of 1941 when the aircraft companies attempted to agree on classifications and job descriptions for the industry as a means of stabilization, at the request of Mr. Hillman they formed a committee with representatives from each company and I was the representative from the Lockheed-Vega Corporation at that time and as such at the end of our research on the particular project at hand, my division at Lockheed edited the report which was forwarded to Washington to the Labor Department and the Army and Navy.

Q. Was that a voluminous report?

A. Yes, it was quite a sizable report.

Q. Was this volume which I pick up from in front of counsel [713] for the Board, entitled "Report of Job Classification and Rate Committee, July, 1941," the document you refer to?

(Testimony of Lawrence Robert Beck.)

A. That is the report.

Q. The cover of this has "Southern California Aircraft Industries—Consolidated Aircraft Corporation, Douglas Aircraft Company, Inc., Lockheed Aircraft Corporation, North American Aviation, Inc., Northrup Aircraft, Inc., Vega Airplane Company, Vultee Aircraft, Inc., were those the companies whose representatives participated in the preparation of this report?

A. Yes, I believe that is correct.

Q. Which you edited?

A. I believe that is correct.

Q. Was there a conference in Washington with reference to this report in July, 1941?

A. Yes, there was.

Q. Did you attend it? A. Yes.

Q. Where was the conference held?

A. It was held in the Social Security Building and in the Department of Labor.

Q. Who was present, if you recollect it, as briefly as you can? I don't want to go into detail about this.

A. The first meeting, of course, was attended by a good many government officials. Mr. Hillman was there and I be- [714] lieve Mr. Davis was there; Army and Navy officials and management and labor officials.

Q. What about Mr. Davis—what was his position?

A. He was merely called in as a consultant for Mr. Hillman and was introduced to the meeting.

(Testimony of Lawrence Robert Beck.)

They were informed at the time that if we couldn't get together there was a possibility that Mr. Davis' conciliation department would take over.

Q. How long did that meeting last?

A. Overall, with a few slight delays, I would say probably five weeks.

Q. Were there representatives of the labor unions there?

A. Yes, sir, there were.

Q. Did you know any of the gentlemen who represented 1125 at that time?

A. I didn't know them at all at that time, although I met them at the meetings there and got to know them.

Q. Now, there was a conference which reconvened in August, 1941?

A. Well, there was really a slight delay of about two weeks and it took up again. I don't believe it really was recessed.

Q. Well, did the second conference get anywhere with reference to the matter?

A. No, I am afraid not. [715]

Q. Was that for the reason that the C.I.O. people wouldn't sit in the meeting with the American Federation of Labor people?

Mr. Ryan: Mr. Examiner, this seems to me to be wholly immaterial as to what went on *Washington* at this stabilization conference and has no bearing on the issues in this case.

Mr. Riggs: I don't think Mr. Ryan has the point of these questions. These companies were always

(Testimony of Lawrence Robert Beck.)

willing to sit down and negotiate and as the thing broke up because the two big labor unions couldn't agree to sit in the same room with each other was not our fault and we should not be accused of unwillingness to bargain.

Trial Examiner Hektoen: Is Mr. Beck going to repeat what Mr. Fleet has said?

Mr. Riggs: His testimony to a great extent will be cumulative and I am going to shorten it as much as possible.

Trial Examiner Hektoen: I think these conferences are matters of record. There can be no mistake about the fact that this meeting broke up and that the meeting in Hollywood this summer was torpedoed by other influences. We will just take notice of that.

Mr. Riggs: I want to ask what the present situation is. Are you waiting for the meeting of the aircraft companies and the unions to be reconvened in Washington? [716]

A. Yes, I think we have been waiting since about July 16th.

Q. And what was the last date that you heard was fixed for the matter?

A. The last date was August 27, I believe.

Q. Has it been postponed from that date?

A. That is right.

Q. Have you anything that you would like to add in addition to what Mr. Fleet said with reference to this matter? I don't want to go all over it again because it is cumulative and there is no question about the facts.

(Testimony of Lawrence Robert Beck.)

A. No, I have nothing particularly to add except I might emphasize a point which you brought out with Mr. Fleet about two types of contracts.

Trial Examiner Hektoen: That is something afieid from this, isn't it?

Mr. Riggs. Well, it only has to do with the point——

Trial Examiner Hektoen: Well, if you are just going to emphasize it, I think we will skip it.

The Witness: That is all I was going to do.

Mr. Riggs: I have nothing more, Mr. Beck.

Cross Examination

Q. (By Mr. Harrington): Mr. Beck, did any labor organization participate in the drawing up of the classifications in this blue book?

A. Yes, indirectly I would say that—you might say that [717] they did have a slight hand in it indirectly.

Q. Well, how—what do you mean by “indirectly”?

A. Well, originally Lockheed and Vega had prepared job descriptions for all of their occupations and I believe they were the only aircraft company in the Southern California area who had prepared such descriptions, and those descriptions were compiled in unison with the labor representatives of Lockheed-Vega Corporation. Every job description which was prepared for each job was signed for by the union representatives as being authentic.

That book served as a strong basis for some of

(Testimony of Lawrence Robert Beck.)

the descriptions in this report which is the reason I say they may have indirectly contributed.

Q. But at the time these things were set up did the union participate?

A. No, they did not, that is correct.

Mr. Harrington: No further questions.

Mr. Riggs: That is all.

(Witness excused.)

Mr. Riggs: I asked Mr. Wiseman to come here and testify but he asked me to let him go at 12:00 o'clock and I agreed to let him go at 12:00 o'clock and inasmuch as his testimony would be entirely cumulative with what Mr. Fleet has already said, I don't think I will call him unless there is some particular thing the Examiner would like to ask him.

[718]

Trial Examiner Hektoen: It is up to you, Mr. Riggs.

Mr. Riggs: He is at your disposal. If there is anything anyone would like to ask him, he is at their disposal but I did say I would let him go at 12:00 o'clock.

Trial Examiner Hektoen: And the whistle just blew.

Mr. Riggs: All right, Mr. Wiseman, you are excused.

Trial Examiner Hektoen: Is there anything more, Mr. Riggs?

Mr. Riggs: No, sir.

Trial Examiner Hektoen: Have we anything that we can do for the next half hour or so?

Mr. Harrington: I have nothing.

Trial Examiner Hektoen: If not we are in adjournment until 10:00 o'clock Tuesday morning, in this same hearing room.

(Whereupon, at 12:00 o'clock noon, the hearing recessed until 10:00 o'clock A. M., Tuesday, September 8, 1942.) [719]

Conference Room
Chamber of Commerce Building
San Diego, California
Tuesday, September 8, 1942 [720]

Trial Examiner Hektoen: We will be in order, please. The correct spelling of the following names shown in the record is as follows: Larimer, L-a-r-i-m-e-r, and Mergen, M-e-r-g-e-n.

It is stipulated and agreed by and between parties that Line 3 on page 268 of the record be amended to read as follows:

"A. Mr. Mineah's clerk . . ."

We will note the following in the record: Henry Golem, assistant to Mr. Newman in the Parts Plant.

Mr. Ryan: Mr. Examiner, in examining the record, we find the name of Lawrence R. Beck, B-e-c-k, a witness for the defense, whose testimony appears on page 712 to 717 in the record, is incor-

rectly spelled. It is spelled in the record as B-e-c-k, and the correct spelling is B-e-c-h-t.

Trial Examiner Hektoen: The record will be so amended.

Mr. Harrington: At this time, Mr. Examiner, I reoffer Board's Exhibits 8-A to 8-E inclusive.

Mr. Riggs: I object to those, which are already marked for identification, upon the ground that there is no proof contained in the exhibits themselves to the effect that the increases therein ordered had not been made subject to negotiation with representative foremen prior to the issuance of the memorandum. [722]

Trial Examiner Hektoen: With your explanation, they will be admitted.

(The documents heretofore marked for identification as Board's Exhibits 8-A to 8-E, inclusive, were received in evidence.)

BOARD'S EXHIBIT No. 8-A

Typed from Master Lists.

Consolidated Aircraft Corporation
Lindbergh Field, San Diego, Calif.

January 30, 1942

Memo to: F. Cary

Purchasing Dept.

Subject: Rate Increases

Your recent recommendation for rate increases on the following men will be effective on Jan. 31, 1942:

8-3069	Humes, J. H.	Trucker—Leadman	.83N	.91N
9-3041	Macaulay, K. J.	Storekeeper—Leadman	.75	.89
8-3068	Moon, V. M.	Storekeeper—Leadman	.83	.88

We enclose a duplicate copy in order that you may advise the Shop Committeeman.

H. R. WISEMAN

BOARD'S EXHIBIT No. 8-B

Typed from Master Lists.

Consolidated Aircraft Corporation
Lindbergh Field, San Diego, Calif.
February 3, 1942

Memo to: E. T. Stewart
Purchasing Dept.

Subject: Rate Increases

Your recent recommendation for rate increases on the following men will be effective on Feb. 7, 1942:

8-4376	Alfred, Clyde	Dispatcher—Same	.75	.83
8-4412	Billger, F. C.	Storekeeper—Same	.75	.80
8-4421	D'Alfonso, J. P.	Storekeeper—Same	.75	.80
8-4511	Hanson, M. C.	Storekeeper—Same	.75	.80
8-4491	Hitson, C. E.	Storekeeper—Same	.75	.80
8-4206	Kemper, Wm. R.	Leadman—Supr.	.96	.99
8-4443	Roberts, J. R.	Planning Clerk—Same	.75	.80
8-4200	Sandlin, C. H.	Leadman—Supr.	1.00	1.02
8-4607	Shults, J. C.	Typist—Planning Clerk	.83N	.83N
8-4285	Wilee, P. H.	Leadman—Supr.	.86	.99
8-626	Adams, R. M.	Planning—Clerk- Leadman	.89N	.99N
8-627	Hannon, G. L.	Store.—Surp. Sub Con. Mat.	.75	Sal.
8-622	Johnson, N. W.	Dispatcher—Asst. Project Lead Dispatcher	.91	Sal.
8-621	Kline, D. F.	Plan. Clerk-Ass't Shop Order Supr.	1.01	Sal.

820 *Consolidated Aircraft Corporation vs.*

8-623	Otte, Emerson	Plan. Clerk—Supr.		
		Mat. Sched.	.94N	Sal.N
8-624	Slattery, W. P.	Dispatcher, Asst. Proj.		
		Lead Dispatcher	.91	Sal.
8-625	Smith, J. E.	Plan. Clerk—Supr.		
		Order Prep.	.93N	Sal.N

We enclose a duplicate copy in order that you may advise the Shop Committeeman.

H. R. WISEMAN

BOARD'S EXHIBIT No. 8-C

Typed from Master Lists.

Consolidated Aircraft Corporation
Lindbergh Field, San Diego, Calif.

February 12, 1942

Memo to: E. T. Stewart
Purchasing Dept.

Subject: Rate Increases

Your recent recommendation for rate increases on the following men will be effective on Feb. 14, 1942:

8-4374	Engelage, G. H.	Dispatcher	.75	.80
8-4517	Highleyman, Daly	Dispatcher	.75	.80
8-4802	Norris, F. A.	Storekeeper	.75	.80
8-4444	Reynolds, W. H.	Storekeeper	.75	.80

We enclose a duplicate copy in order that you may advise the Shop Committeeman.

H. R. WISEMAN

BOARD'S EXHIBIT No. 8-D

Typed from Master Lists.

Consolidated Aircraft Corporation
Lindbergh Field, San Diego, Calif.
February, 19, 1942

Memo to: F. Cary
Purchasing Dept.

Subject: Rate Increases

Your recent recommendation for rate increases on the following men will be effective on Feb. 21, 1942:

8-3023	Davin, Brendan	Leadman—Same	.83	.88
	Joseph			

We enclose a duplicate copy in order that you may advise the Shop Committeeman.

H. R. WISEMAN

BOARD'S EXHIBIT No. 8-E

Typed from Master Lists.

Consolidated Aircraft Corporation
Lindbergh Field, San Diego, Calif.
March 16, 1942

Memo to: E. T. Stewart
Purchasing Dept.

Subject: Rate Increases

Your recent recommendation for rate increases on the following men will be effective on Mar. 21, 1942:

822 *Consolidated Aircraft Corporation vs.*

8-4468	Dohme, Denver	Dispatcher—Lead		
	Willard	Dispatcher A	.83N	1.06N
8-4465	Douglas, Sherman	Trucker A—Same	.75	.80
	Alfred			
8-4646	Graham, William	Dispatcher—Lead		
	Francis	Disp. A	.91N	1.06N
8-4748	Jeannes, Calvin	Trucker A—Same	.75	.80
	Douglas			
8-4763	Mikelson, Melvin	Trucker A—Same	.75	.80
	E.			

We enclose a duplicate copy in order that you may advise the Shop Committeeman.

H. R. WISEMAN

Mr. Riggs: Mr. Newman.

GEORGE J. NEWMAN

a witness called by and in behalf of the Respondent, being first duly sworn, was examined and testified as follows:

Direct Examination

Q. (By Mr. Riggs): Will you give your full name and address to the stenographer, please?

A. George J. Newman, 5808 El Campo Terrace, Fort Worth, Texas.

Q. Are you employed by Consolidated, Mr. Newman?

A. I am.

Q. When were you first employed by Consolidated?

A. I can't remember the exact date; somewhere in 1924.

Q. Was that at the Buffalo Plant?

(Testimony of George J. Newman.)

A. No, that was in East Greenwich, Rhode Island, when the company was first organized.

Q. How many employees did it have at that time?

A. I was one of the first, I guess. We had about seven or eight.

Q. Were you still employed by the company when it moved to [723] Buffalo?

A. That is correct.

Q. When did it move to Buffalo?

A. I can't remember the exact date it moved to Buffalo.

Q. Do you recall how many years you were there?

A. In Buffalo?

Q. Yes.

A. I have been with the company ever since then, if that's what you are getting at.

Q. Were you with the company when it moved from Buffalo to San Diego?

A. That is right.

Q. Will you state some of the positions you held with the company?

A. Well, I began working in the wing department and I transferred from there to the final assembly, I could probably go through the whole rigmarole of jobs right down the line; I worked in most every department.

Q. Have you flown the company's planes?

A. All they have built to date.

Q. What kinds? Land planes or seaplanes?

A. One of each type, at least.

Q. Were you employed by the company in 1940 and 1941?

A. Yes, I was.

(Testimony of George J. Newman.)

Q. What was your position at that time in 1940?

[724]

A. I believe early in 1940 I was assistant factory manager and assistant chief test pilot at the home plant. I was transferred then to the Parts Plant.

Q. When was the Parts Plant opened to the employees to work in?

A. I would say about in May, I believe we started moving the machinery.

Q. Of 1941? A. Yes.

Q. Prior to that time you had been in the Home Plant as assistant factory manager and—

A. Assistant chief test pilot, that's right.

Q. When were you appointed the manager of the Parts Plant?

A. I was appointed just before we began to move down there. I can't remember the exact date.

Q. How long had the Parts Plant been in that building? A. Pardon?

Q. How long did they take to build the Parts Plant?

A. Oh, my guess would be nine months we were building it, roughly nine months.

Q. Was that built by the Defense Plant Corporation? A. Yes.

Q. Have you an approximate idea of its cost?

A. No, I do not have any idea of its cost.

Q. Would you accept the figures of 20 to 22 million dollars? [725]

A. I would, including machinery.

(Testimony of George J. Newman.)

Q. How many employees was that built to accommodate?

A. Well, we figured originally about 15,000; we were up to 18,000 when I left there.

Q. Do you know Mr. Arthur J. Fisher?

A. Not personally, only meeting him in a business way.

Q. When did you first meet him to know who he was, by name?

A. I don't know the exact date. I met him at the time when he came into my office with some grievances or other in connection with union matters.

Q. Can you fix the time?

A. I can't fix the time or the date.

Q. Was it in 1941 or 1940?

A. It was some time after we had opened the Parts Plant.

Q. Did he come into your office frequently?

A. Yes. He came in my office very frequently.

Q. What was the nature of his visits?

A. Mostly petty grievances, a lot of them, more or less imaginary, that became very monotonous, after awhile, to keep hearing.

Mr. Ryan: I object to that as a conclusion of the witness and move it be stricken from the record.

Trial Examiner Hektoen: It may stand.

Q. (By Mr. Riggs): Is there a difference between a formal grievance and petty grievances?

[726]

A. I understand formal grievances are supposed to be written out; these were never in writing.

(Testimony of George J. Newman.)

Q. And are those regarded by the shop committee and the management in their meetings as petty grievances when they are not written out?

A. I believe they are.

Q. I show you Respondent's Exhibit 2 dated July 23, 1940, a memorandum to shop personnel, subject: Leaving the department, and ask you if that was issued by your orders, and signed by you?

A. Yes, sir. I dictated and issued the orders.

Q. Will you state the circumstances under which that was issued?

A. That was intended primarily to control the promiscuous roving and sight-seeing between departments.

It might be well to state here there is quite a difference between the Home Plant and the Parts Plant, the Parts Plant being composed of mainly bench assemblies, small assemblies which didn't require the men to leave their department in the line of duty. At the Home Plant they were more or less required to go between departments to hang things on airplanes, and so forth.

Q. The Parts Plant was built in order that there should be a continuous flow of parts from one end of the plant to the other? Is that not correct? [727]

A. That is more or less correct. As I said, it was small bench assemblies, where the men had no real reason to leave one department and go to another department. However, there is always a lot of curiosity on people's part, and roaming from one place to another, and that was an attempt to stop

(Testimony of George J. Newman.)

the roving. It was aimed at all parties, as it stated.

Q. The Home Plant, as I understood you to say, maintains a large number of buildings scattered around quite a large acreage. Is that correct?

A. That is correct.

Q. And the jobs necessitated the men going from one building to another at certain times?

A. I would say there are a number of men required to do that, yes.

Q. Or was there any circumstance leading up to the issuance of this bulletin of July 23, caused by men leaving the Parts Plant to go down to No. 1?

A. No, that's not quite possible to do that.

Q. Mr. Newman, it has been testified here that in the opinion of one witness who testified, with relation to this bulletin, that that was the purpose of the bulletin, to prevent men from the Parts Plant getting to Plant No. 1.

A. I would say with reference to that, whoever interpreted it that way was mistaken. It wasn't for that purpose, because, in the first place, to get from the Parts Plant to Plant No. [728] 1, a man would have to pass guards to get out, which necessitated having some kind of an additional permit, in order to get from one plant to the other. He can't get out unless he is sent by somebody.

Q. Was it possible to get through the entrance to the Home Plant wearing the button of a department, by one who was working in the Parts Plant?

A. I believe it was possible to do that. I think

(Testimony of George J. Newman.)

the buttons were more or less interchangeable, but the rover's button had no significance in the Home Plant, because that system was not in vogue at the Home Plant. In other words, the guards at the Home Plant had no instructions as to what to do about rover's buttons, and anybody that went to the Home Plant wasn't apprehended whether they did or did not have one.

Q. When you went over as manager of the Parts Plant Mr. Kelly remained as manager of the Home Plant? A. Yes, sir.

Q. Did Mr. Kelly put in force at the Home Plant any rules or regulations with reference to the issuance of rover's buttons?

A. Mr. Kelly, to my knowledge, did not. I am quite sure he did not. He had several discussions with me about it and remarked how well it was going at the Parts Plant, but he did not put it in, because, as I said, of the difference in [729] the nature of the work.

Q. Have you told us all you want to with reference to the circumstances of issuing this bulletin of July 23, Respondent's Exhibit 2?

A. I don't think there is much more to be said on that.

Q. Did this apply to all persons in the employ of the company, whether union men, non-union men, or shop committeemen?

A. Exactly what the notice says; it applies to everybody.

Q. I also show you Respondent's Exhibit 3, a

(Testimony of George J. Newman.)

memorandum dated August 26, 1941, a memorandum to all department heads, signed: George J. Newman, and ask you if that was issued by you?

A. It was issued by me.

Q. Will you state the circumstances which led up to the issuance of this bulletin?

A. Well, I believe the first notice said that all personnel were involved. We found out afterwards there were certain people that had to be exempted from it. We made those exemptions in a later bulletin. We also jogged the foremen's memory, that they were still required to issue rover's buttons to the rest of the boys that weren't marked exempt.

It was mainly people that had business to rove, like, maintenance men, janitors, and so forth.

Q. When did you inaugurate the system of having red buttons issued by the foremen, as rover's buttons? [730]

A. We inaugurated them when the first memorandum was put out.

Q. The first memorandum or the second?

A. The first memorandum.

Q. That was the memorandum of the 23rd of July? A. That is right.

Q. And this memorandum of August 26, 1941 exempted mechanical maintenance, electrical maintenance and two or three other departments from its scope. Is that correct?

A. That is correct, those people who had business, their jobs comprised mainly of roving from one plant to another, to repair machinery, sweeping

(Testimony of George J. Newman.)

the floor; not tied down to one particular place.

Q. The stock material chasers, department 58, were obliged to go from one place to another?

A. That is correct, the stock chasing department, and they served the entire factory.

Q. How about janitors?

A. Janitors serve the entire factory.

Q. What is the duty of the janitors?

A. The duty of the janitors is to sweep the place and keep it clean.

Q. Inside the factory or out?

A. Inside and outside, although we have mechanical sweepers that do most of the outside work.

[731]

Q. What necessity was there for janitors to do any outside work?

A. The main function the janitor performed outside was sweeping up after the lunch hour, when the workmen strewed papers and lunch all over the yard, then we had crews that went outside and swept.

Q. Did you also have mechanical sweepers?

A. We had a mechanical sweeper that swept the bulk of the yard.

Q. Were there many men in the Parts Plant whose jobs necessitated their working in the open air?

A. As compared to the Home Plant, no, there were very few required to work outside, none of them performing aircraft jobs, with the exception, I think, just before I left, when the shipping depart-

(Testimony of George J. Newman.)

ment got crowded out, we required them to work outside to box spares for shipment.

Other than that, the only people working outside were the mechanical maintenance and the electrical maintenance, and so forth.

Q. What type of men were required to work outside at the Home Plant?

Mr. Ryan: Mr. Examiner, I can't see the relevancy of this. We don't care whether they worked outside or inside, so far as the issues in this case are concerned.

Trial Examiner Hektoen: You are getting to the janitors, [732] are you, on that?

Mr. Riggs: Yes.

Trial Examiner Hektoen: You may continue.

The Witness: Will you repeat that?

Trial Examiner Hektoen: Read the question, Miss Reporter.

(Question read.)

The Witness: Well, a great deal of the final assembly is done outside, erection and final assembly.

Q. (By Mr. Riggs) Did you attend a meeting in November of 1941, in which a penciled grievance was presented by Mr. Fisher, with reference to a conversation he had had with Mr. Mineah.

A. I could never remember seeing anything in writing on it, no.

Q. Do you recall whether you were at that meeting or not, or any meeting at which Mr. Fisher and certain members of the union, and Mr. Powell and

(Testimony of George J. Newman.)

Mr. Golem and yourself were present, and a grievance was reported by Mr. Fisher with reference to a conversation he had had with Mr. Mineah?

A. I cannot, I cannot be sure whether it was taken up at a grievance meeting or whether Fisher spoke to me in the hall, or elsewhere. He did complain about the manner in which Mr. Mineah addressed him.

Q. Did he complain about Mr. Mineah swearing at him? [733] A. Yes.

Q. What was your reply with reference to it?

A. I believe I told him I would see the thing was straightened out, that Mineah was straightened out on it; or that he understood we didn't allow people to go around swearing at the men.

Q. Was it contrary to the company's policy to permit the foremen or assistant foremen or leadmen to swear at the workers?

A. We forbid all abusive language such as that, yes.

Q. At any time prior to that time did you ever have any conversation with Mr. Fisher about him leaving his department?

A. I can't recall that I had any direct conversation regarding him leaving his department.

Q. Did you ever have any conversation with Fisher in which you told him, in substance, that neither one of these bulletins, Respondent's Exhibits 2 or 3, applied to him? A. Never.

Q. Under the rules with reference to a rover's button, was it necessary for a union shop committee-

(Testimony of George J. Newman.)

man to obtain a rover's button to leave his place in his own department and visit, or talk with the men in the same department?

A. The notice was not issued to stop men from carrying on normal conversations within their own departments; that was [734] under the jurisdiction of the foreman that was running the department.

Q. Was that bulletin intended to prevent men from leaving their own department and going to another department without a rover's button?

A. It was.

Q. And it says on its face: Bright red buttons are being issued to the foremen, who will see each man leaving the department is supplied with one, who will return same when mission is completed."

Do you recall that? A. That is correct.

Q. And that didn't apply or cover by its terms the occasion when a union shop committeeman left his bench or place of work to talk to other people in the same department?

A. No. That was entirely up to the foreman to see that was controlled within reason, and I don't think it was abused.

Q. I think you said in the Parts Plant most of the departments were small and fairly centralized?

A. They were more or less self-contained, to a point where they didn't require a man to go between departments to complete his job.

Q. Do you recall any meeting with Mr. Fisher on the 13th of December, 1941? [735]

A. I don't recall a meeting with him; I recall

(Testimony of George J. Newman.)

him coming into my office, if that's what you mean.

Q. Will you tell the Examiner the events that led up to his coming to your office, and what he said when he got there, and what you said. First, begin with the events leading up to this visit.

A. Well, some time during the afternoon, I can't recall what time, Fisher called me on the phone and told me in substance, I can't remember his exact words: That there was a petition going around the plant about men working on Sunday. I told him I had no knowledge of that petition.

Q. Had you knowledge of a petition dated December 11, 1941, Respondent's Exhibit 12, which I show you?

A. Yes, I had a knowledge of that petition, and I had forwarded it to people at the Home Plant for action.

Mr. Riggs: Read the answer.

(Answer was read.)

Q. (By Mr. Riggs) Do you remember approximately how many men at the Parts Plant had signed the petition, Respondent's Exhibit 12?

A. I can't remember the exact figure. It seems to me in the neighborhood of 400 people.

Q. This petition states: Gladly volunteer their time to perform this task during daylight hours, but we again demand immediate action. [736]

A. That is right.

Q. That was the petition you forwarded to the Home Plant for action?

A. That is correct.

(Testimony of George J. Newman.)

Q. This petition, Respondent's 12, refers to a loss of man hours during a blackout of December 10, 1941. Would you state what occurred on December 10, 1941, and what loss of man hours there was, if any?

A. I recall on December 10, we had an air raid alarm which caused us to blackout the complete plant and, consequently, throw all the workmen completely out of work. They were not allowed to leave the plant until quite a late hour, couldn't even go home. I believe that is what caused that petition to be circulated by the men.

Q. Whose orders were they, that they couldn't leave the plant to go home?

A. The Army and the local police.

Q. How many man hours, approximately, would you judge as lost?

A. As I recall the time figured up in man hours in the Home Plant and Parts Plant would be the same as is required to build one complete B-24 bomber.

Q. At the time of this blackout, was the roof and sides of the plant composed of glass?

Trial Examiner Hektoen: Read the question.

[737]

(Question read.)

The Witness: There were skylights in the roof and glass along the sides of the building, yes.

Q. (By Mr. Riggs) Did Mr. Stark telephone you on December 13th?

(Testimony of George J. Newman.)

A. Yes, Mr. Stark called me on the phone on December 13th, in the afternoon, somewhere around 3:00 o'clock.

Q. What did he say?

A. He said that there was a man in his department whom he thought was Fisher, circulating through his men, either talking against or for some kind of a petition that they were signing.

Q. Where was Mr. Stark in the department?

A. His department was in the wood mill, which is at the north end of Building 3.

Q. Is that building separated by a substantial space from the rest of the Parts Plant?

A. Approximately 400 feet, 350 to 400 feet.

Q. How far away was it from the building where Mr. Fisher was working?

A. Mr. Fisher was working in Building 3, about 400 feet from the north end, and on the second floor which would be, approximately, if he were in the wood mill, which would be approximately 900 to 1000 feet from his work.

Q. Did you receive a telephone call from Mr. Watt, foreman [738] of the tool room?

A. I did.

Q. What did Mr. Watt say?

A. He said substantially the same thing that Ted Stark had said.

Q. What did you do then? Did you telephone to Mr. Mineah?

A. I called Mr. Mineah on the phone, and at-

(Testimony of George J. Newman.)

temped to find out if Fisher had left his department, where he was.

Q. What did you say?

A. I believe I requested if Fisher had left the department and if he had obtained permission to leave. Mr. Mineah said: No, he had not obtained permission to leave, and he had no knowledge of his being out of the department.

Mineah was on the second floor and, naturally, he couldn't see Fisher from where I was calling him on the phone.

Q. And then what happened?

A. Mineah called me back to tell me Fisher was not in his department and he didn't know where he was.

Q. What happened next? Did you ask to have Mr. Fisher report to your office?

A. No, we attempted to find Fisher then, and couldn't find him. I asked Mineah to find him, see if he could find him.

Q. Then what happened?

A. Well, about that time the whistle blew at 3:30, the [739] quitting whistle, and it couldn't have been over a minute after that that Fisher opened the door of my office and walked in.

Q. Had you requested Mr. Mineah to tell him to come to your office if he found him? A. No.

Q. When Mr. Fisher opened the door to your office and walked in, what was said by you and what was said by him?

A. I asked Fisher what he was doing out of his

(Testimony of George J. Newman.)

department, and did he have permission to leave, and he said: No, he didn't have permission to leave the department.

I asked him if he had a rover's button, and he said, No, he didn't have a rover's button.

Q. Did you call him on that occasion a slant-eyed Jap, or a Jap lover, or a God damned communist?

A. I didn't use any language with him like that. I did comment that we were at war, and in my opinion this petition in question here was a patriotic move on the men's part themselves to volunteer their time to come in and blackout the plant, so that they could continue to work, and I thought he had no reason to interfere with what they were doing.

Q. Did you say anything about him staying on the job in the future?

A. I wanted him to stay on the job, and that he was on thin ice, and I was warning him, and not threatening him. [740]

Q. Did you say anything about his obtaining specific permission from the foreman if he desired to leave, in the future? A. I did.

Q. What was that?

A. I told him he was to obtain permission from his foreman before he left the department. He well knew that.

Q. I believe you said on this occasion he did not have a rover's button?

A. He did not. He admitted he had no rover's button.

(Testimony of George J. Newman.)

Q. Did you ask him whether he had obtained Mr. Mineah's permission to leave?

A. I did, and he said: No.

Q. Subsequent to that time do you recall any meeting between the union and any of the management, at which the subject of raincoats for the janitors was discussed?

A. I believe there was a meeting with management at which I did not attend, a grievance meeting, at which that subject was brought up.

Q. Who told you about it, after that meeting?

A. My two assistants, Golem and Powell.

Q. What was the subject of the conversation you had with them?

A. The subject of the conversation was, would we supply the colored janitors with raincoats, hats and boots, the same as [741] we supplied the maintenance men.

Q. The maintenance men are the men you described whose jobs kept them out in the open practically all of the time?

A. Not necessarily all the time. In bad weather, if we had anything not in storage, the maintenance men went out to cover the various parts with tarpaulins, and actually got out in the rain, but they were the only men forced or requested to work in the rain.

Q. You said most of the janitors' duties that took them outside, were to clean up after the lunch hours?

A. That is right.

(Testimony of George J. Newman.)

Q. Was it the practice of employees to go outside for lunch in the rain?

A. I never saw any of them out in the rain.

Q. What was further said at this discussion by you, with Mr. Golem and Mr. Powell? Did you state that the company would furnish raincoats to the colored janitors?

A. We decided we would not supply janitors with raincoats, hats, or boots, inasmuch as their duties didn't require them to be outside, and we didn't buy raincoats and hats for all the rest of the men in the plant.

Q. Was that statement of the company's attitude with reference to that matter transmitted to Mr. Fisher?

A. I believe it was.

Q. On January 1, 1942 were you with Mr. Golem and Mr. [742] Powell, any place in the Parts Plant?

A. January 1, 1942, around 8:30 or 9:00 o'clock in the morning, I picked up Golem and Powell and we started on a tour of inspection of the plant.

Q. Where did you begin?

A. At Building No. 1, the south building; we covered the main aisle right through the plant. We went through Building 1, entered Building 2, and started down the aisle in Building No. 2.

Q. When you started your tour of inspection did you expect to see Fisher anywhere?

A. I did not expect to see Fisher. I was not looking for Fisher or anybody else in particular.

Q. Did you know he was out of his department at that time?

(Testimony of George J. Newman.)

A. I hadn't any idea he was out of his department.

Q. Did you meet him? If so, where?

A. I ran into Fisher about a little north of the center of Building No. 2. He was coming up the aisle and we were going down the aisle.

Q. Was he talking with anybody?

A. Yes, he was talking with a colored janitor. I believe he was—he wasn't the head janitor; he was some kind of a union committeeman.

Q. Did Mr. Fisher have a rover's button, in sight?

A. Fisher had no rover's button in sight. That was one of [743] the reasons that prompted me to stop him.

Q. If he had had a rover's button would you have stopped him?

A. The chances are I would never have stopped him.

Q. Did you ask him if he had a rover's button?

A. I asked him where he was going, and if he had a rover's button.

Q. What did he say?

A. He started to explain where he was going, and I insisted did he have a rover's button, and he reached into his right hand pocket and pulled out a rover's button.

Q. Did you on that occasion tear a rover's button off his shirt?

A. I couldn't have torn it off his shirt, when he had it in his hand.

Q. The answer is: No?

A. Definitely no.

(Testimony of George J. Newman.)

Q. What else was the subject of conversation?

A. Fisher began to explain to me what he was doing, namely: trying to get the janitors raincoats and rain hats. I told him that had already been settled and I asked him if he had permission from his foreman to leave, and sent him back.

Q. What did he say? A. He said: No.

Q. Where did you and Mr. Golem and Mr. Powell go from [744] there?

A. I told Fisher to return to his department.

Q. Where did you go then?

A. Then we returned to Fisher's department also, to Mr. Mineah.

Q. Did you talk with Mr. Mineah?

A. By the time we arrived Mr. Mineah wasn't there, and one of the clerks eventually found him. I asked him if he had given Fisher permission to leave and he said: No. Then we checked with his assistant foreman, or leadman, I am not sure which he was, Gahlbeck, and Gahlbeck said he had not given him permission to leave.

Fisher had told me at the time I stopped him he got—he could not find Mineah, but he had received permission from Gahlbeck.

Q. Did you check with his clerk, Gahlbeck?

A. I checked with the head clerk and the head clerk said he had issued a rover's button because Fisher had told him he had permission to leave.

Q. Was it the head clerk, or the clerk named Pickett?

A. I don't know; there are two clerks there, and

(Testimony of George J. Newman.)

I am not sure who it was, so far as the clerks were concerned.

Q. After talking with Mr. Mineah and his assistant, did you go to where Mr. Fisher had returned to his work?

A. No. After talking to Mineah and finding he did not [745] give Fisher permission I called Gahlbeck down to the desk and Gahlbeck said he had not given permission either. We then sent for Fisher and when he arrived I told Mineah to make out his time, that he was through.

Q. Subsequent to Mr. Fisher's discharge, were you concerned in any of the meetings where the subject of his reinstatement was brought up?

A. I was not.

Q. When were you transferred to the command of the Texas Plant?

A. About March of this year.

Q. The Examiner asked, Mr. Newman, if you knew where the initiation, with reference to Respondent's Exhibit 12, came from. Can you tell us anything with reference to that?

A. I haven't any idea where it came from. The first time I saw it was when it came into my office; there must have been about 12 of these individual things clipped together in various groups, two or three in a group, that were signed, and brought into my office. That was the first I knew they were in the plant at all.

Q. This other petition about working time and

(Testimony of George J. Newman.)

a half on Sunday, did you know such a petition was being circulated at the Home Plant?

A. I had heard by telephone that it was being circulated at the Home Plant, but I had no knowledge of it being circu- [746] lated in the Parts Plant.

Q. After Respondent's Exhibit 2 of July 23 was issued, Mr. Fisher said he immediately went to George Newman when they put it on the board, and asked him if that included: "Me and the other committeemen in the plant," and he said, "No." Did you have any conversation of that nature with Fisher? A. None whatsoever.

Q. Did you ever tell him that bulletin, Respondent's Exhibit No. 2, did not apply to him or any of the other shop committeemen?

A. I never told any of the union men that, nor anybody else that.

Q. On the August 26th bulletin, Respondent's Exhibit 3, did you ever have any conversation with Mr. Fisher to the effect that that didn't apply to him, when he left his department?

A. No, I did not. If I had intended it would exempt the union committeemen or anybody else, it would have been on that second notice, because I specifically there exempted certain people from it. I certainly wouldn't have left them off it if I had intended to exempt them.

Q. He says, at page 276, when this latter bulletin of August was put up: "* * * I went in and asked Mr. Newman personally myself if this—if we must abide by this bulletin.

(Testimony of George J. Newman.)

“In other words, we could not leave our building, and he said to me: ‘As long as you proceed to get your button [747] and have permission to leave, that is what you are supposed to do.’ ”

Do you recall any conversation with reference to that?

A. I do not recall it, but chances are I might have told him that. I don’t remember.

Q. With reference to this penciled grievance which Mr. Fisher had signed, complaining that Mr. Mineah had sworn at him, he said Mr. Newman and Mr. Powell both said they would talk to Mr. Mineah, and kind of put him in his place a little bit. Do you remember having a conversation like that with him?

A. I think perhaps we might have had some such conversation with him regarding swearing, yes.

Q. He says: “they were going to tell him in regards to the language he used and the way that he approached me and told it to me.” That is on page 279. Do you recall telling him that?

A. Undoubtedly we told him that.

Q. Did you tell him at any time that you were going to override Mr. Mineah’s instructions to him contained in the interview where he was accused of swearing, that he could not leave his department without Mr. Mineah’s permission?

A. Absolutely not.

Mr. Riggs: That is all.

(Testimony of George J. Newman.)

Trial Examiner Hektoen: We will have a short recess be- [748] for cross examination.

(Short recess.)

Trial Examiner Hektoen: We will be in order, please. All right, Mr. Harrington.

Cross Examination

Q. (By Mr. Harrington) Mr. Newman, are grievances supposed to be written out?

A. It is my understanding that a formal grievance is supposed to be written out.

Q. Isn't it a fact that it is not necessary to write them out unless they cannot be settled without reducing them to writing?

A. It is almost impossible to handle the number of things that might come up, that might be of a complicated nature, unless you have them in writing.

Q. Had anybody ever instructed Fisher that grievances had to be written out?

A. I can't say whether they had or not.

Q. Had anybody instructed you grievances had to be written out?

A. Nobody had instructed me, no.

Q. So far as you know, there is no official rule that they must be written out?

A. I don't know. I don't know of any official rule one way or the other on it. [749]

Q. Does the shop chairman of the union serve the entire plant, upon call by the committeemen?

A. Does it what?

Q. The shop chairman of the union?

(Testimony of George J. Newman.)

A. Does he serve the entire plant?

Q. Yes, upon call by the committeemen?

A. I think that he does. However, in that connection, since I was manager of the Parts Plant, I requested a number of time that the union give me an outline of his duties, of the duties of those people, and I never received it.

Q. In what form was that request?

A. In what form?

Q. Yes. A. Verbally, in the meetings.

Q. When janitors work outside, what work do they do?

A. Janitorial work, sweeping, cleaning up, emptying trash barrels, and so forth.

Q. Do they have to work outside when it is raining?

A. I would say their duties did not require them to work outside when it is raining.

Q. If it rained for some considerable length of time would things get bogged down and necessitate their going outside in the rain?

A. I don't know how a man could be expected to clean outside in the wet. I never saw a broom swept in the rain, yet. [750]

Q. Were they required to pick up things on the outside?

A. Picking up things was usually done by the mechanical maintenance.

Q. Isn't it a fact that during periods when it rained for days at a time that janitors had to work outside. A. Not to my knowledge.

(Testimony of George J. Newman.)

Q. Wasn't it agreed at a meeting between management and the union to allow janitors raincoats?

A. It was not.

Q. Did the janitors operate the incinerators?

A. Some janitors operated incinerators, and some mechanical men.

Q. Did they operate those incinerators when it rained?

A. It was obviously impossible to operate them because the material got wet and it wouldn't burn.

Q. When Fisher came to your department on December 13th, what did you tell him at that time? That is, in reference to that petition?

A. I don't quite understand the question.

Q. On December 13, you have testified Fisher came to your department about a petition with reference to working on Sundays——

A. He came to my office.

Q. He came to your office. What did you tell him at that time? [751]

Read the question to him.

(Question read.)

The Witness: I don't think Fisher did very much of any telling. I did most of it.

Q. (By Mr. Harrington) Did you call him a Jap lover?

A. I called him nothing of the kind.

Q. Or a Hitlerite? A. I did not.

Q. Or a Communist?

A. I called him neither one of the three things.

Q. What did you say to him?

(Testimony of George J. Newman.)

A. What did I say to him?

Q. Yes.

A. I asked him where he was, as I have brought out before, what he was doing out of his department.

Q. Did you say anything else to him?

A. I can't remember the exact conversation. I believe I made some remark about that we were at war. I can't remember the exact words.

Q. At that time wasn't Fisher presenting a grievance in his official capacity?

A. No, he was not.

Q. Why wasn't he?

A. Because he had no reason to present any kind of a grievance at that time. He usually made those on company time. [752] He was on his way home.

Q. This petition was requesting him to work on Sundays for time and a half, or nothing, wasn't it?

A. It was not requesting him to do anything.

Q. What did it state?

Mr. Riggs: I object to that; it is in evidence.

Trial Examiner Hektoen: He can give us some idea; go ahead, Mr. Newman.

The Witness: In my opinion the petition stated that if the men wanted to work and be paid they could be paid time and a half, or they could work for nothing, either one.

Q. Didn't the contract provide for double time?

(Testimony of George J. Newman.)

A. The union contract, as I understand, did provide for double time.

Q. Then why do you say Fisher wasn't there in official union capacity?

A. Because I had no knowledge of a petition being circulated in the plant, and Fisher didn't come in to me with any question about it.

Q. What did he come for?

A. He came up because I was looking for him, and he knew it.

Q. How do you know he knew it?

A. How did I know he knew it?

Q. Yes. [753]

A. Well, perhaps I don't know he knew it. I would take it he knew it.

Q. Were the foremen told to talk to the men about working on Sunday, December 13th?

A. They were not.

Mr. Harrington: I have no further questions.

Redirect Examination

Q. (By Mr. Riggs) Tell us about these meetings with the union where grievances were taken up? How would they usually operate?

A. Well, the grievances were usually taken up at a meeting with management, they were usually very petty grievances that we could settle immediately, right on the spot, which were settled immediately.

Q. Can you give the Examiner an idea of how many were apt to be brought up at a meeting? I don't mean any particular meeting, but——

(Testimony of George J. Newman.)

A. I would say they ran from three to ten grievances. They were mostly regarding working conditions, poor ventilation in the lavatories, and things that were of a nature that we could very quickly decide we were wrong, and could fix immediately.

Q. Were those grievances presented by the union shop committeemen orally?

A. Orally, yes, in most cases, yes. [754]

Q. Where it was possible to settle them on the spot, would the assembled meeting settle them?

A. Yes, and the people in the room were so informed, that they would be settled.

Q. When a grievance came up about something you were not acquainted with, what was the practice?

A. The usual practice there was to tell the boys we would look into it and let them know at the next meeting. Some involved quite an extensive expenditure of time, and money, and we naturally wanted to look into them and find out just exactly what they involved before we went ahead and told them: Yes or No.

Q. Did the management usually report at the next meeting as to what they would do with reference to the grievance?

A. If the management didn't report, the union at that time would ask what had been done about it, and I think they were informed as to what was being done.

Q. Do you remember any particular occasions when management and union didn't get together on a solution of a grievance?

(Testimony of George J. Newman.)

A. At the Parts Plant I can't remember any outstanding grievance we did not get together on.

Q. You were asked by Mr. Harrington as to whether the grievance must be in writing. Are you familiar with paragraph 9 of Board's Exhibit 3, which is the Union agreement as amended to March 5, 1942? [755]

A. I am not conversant with it enough to be able to quote it word for word.

Q. This was adopted about the time you left for Fort Worth? A. When was the date?

Q. March 5, 1942.

A. Yes, about that time.

Q. Prior to that time, however, it was a fact that a great many of the grievances had been submitted orally to this meeting?

A. Yes, the majority of them.

Mr. Riggs: That is all.

Trial Examiner Hektoen: Anything more, Mr. Harrington?

Recross Examination

Q. (By Mr. Harrington) On January 1, 1942, wasn't there a back log of grievances?

A. Not to my knowledge there was not.

Q. How often was this meeting held, you have just testified to, between union and management?

A. How often?

Q. Yes.

A. I believe it was held monthly, once a month.

Q. And at that time, any grievance that couldn't be settled, was reduced to writing, was it not?

(Testimony of George J. Newman.)

A. I can't be sure of that procedure.

Mr. Harrington: I have no further questions.

[756]

Mr. Riggs: Thank you, Mr. Newman.

Trial Examiner Hektoen: That is all, Mr. Newman. Thank you.

(Witness excused.)

Mr. Riggs: Mr. Henry Golem.

HENRY GOLEM,

a witness called by and on behalf of the Respondent, being first duly sworn, was examined and testified as follows:

Direct Examination

Q. (By Mr. Riggs) Will you give your full name and address to the stenographer?

A. Henry Golem, 3535 Jackdow Street, San Diego.

Q. Are you employed by Consolidated, and if so, in what capacity?

A. Assistant factory manager.

Q. Of what factory? A. Plant 2.

Q. In San Diego? A. Yes.

Q. How long have you been such assistant factory manager?

A. Ever since Mr. Newman left, which was in March, I believe.

Q. Of this year? A. Of this year.

(Testimony of Henry Golem.)

Q. Prior to March, 1942, had you been employed by Consolidated at Plant 2? [757]

A. Yes, I was assistant to Mr. Newman.

Q. Did your position change when Mr. Newman left?

A. Yes, in that I was one of Mr. Newman's assistants; then I worked for Mr. Ezard.

Q. What I want to find out, Mr. Golem, is what change in your status occurred when Mr. Newman left for Texas?

A. Practically none, except that I had a different boss.

Q. Who is your boss at the present time?

A. Mr. Ezard.

Q. He is the factory manager of Plant 2?

A. Yes.

Q. Do you remember New Years day of this year? A. Yes.

Q. Were you with Mr. Newman and Mr. Powell when they met Mr. Fisher on that day?

A. Yes.

Q. Tell us where you met him.

A. We met him in Building 2. He was talking to one of the colored janitors, and when we came up there the colored janitor started to walk away and Mr. Newman approached Mr. Fisher and asked him where his rover's button was, and he asked him what he was doing here, and he said, "Why haven't you a rover's button?"

And he said that he had one, and he reached in his pocket and got one out. [758]

(Testimony of Henry Golem.)

He told Mr. Fisher, then, to go back to work.

After he had left, why, Mr. Newman says, "I am going down there and check that rover's button." So all three of us walked down to Mr. Min-eah's office, where he checked the rover's button, to see whether he had issued any.

Q. Did Mr. Newman tear the rover's button off of Mr. Fisher's shirt? A. No.

Q. Did Mr. Fisher have a rover's button where it was visible? A. No.

Q. Did you know you were going to meet Mr. Fisher when you started out with Mr. Newman?

A. No.

Q. Had you ever given Mr. Fisher permission to leave his department without obtaining his foreman's consent? A. No.

Q. Did you ever have any talks with him about it at all? A. No, I didn't.

Q. Did you know him by sight?

A. Yes.

Q. Did you know him to talk to?

A. No, I don't believe I have ever had any conversation with him.

Q. Did you sit on this committee of union and management [759] which discussed grievances, from time to time?

A. I was in one meeting only.

Q. What meeting was that?

A. That was one meeting Mr. Newman couldn't attend, and which Mr. Powell and I went to, into this meeting.

(Testimony of Henry Golem.)

Q. When was that?

A. I don't know. I know it was just prior to the time Mr. Fisher was discharged, probably three or four days before; I don't know; it might have been two weeks.

Q. Well, at that meeting did the question of raincoats and rubber boots for the janitors come up?

A. There was something mentioned about raincoats.

Q. What did you or Mr. Powell say with reference to it?

A. I don't remember what we said, as to what we were going to do about it. Usually, this being the first meeting that I was there, why, we didn't make very many decisions on anything of any major importance. We just left it with the word that we would check it with Mr. Newman.

Q. Did you afterwards check it with Mr. Newman, as to whether the company was willing to furnish rubber boots and raincoats for the janitors in Parts Plant No. 2?

A. We did, and he said: No.

Q. Do you know whether you reported it to Mr. Fisher, or did anybody that you know of report it to him?

A. I don't think they did. [760]

Mr. Riggs: That is all.

Cross Examination

Q. (By Mr. Harrington) What did Newman say to Fisher on that morning when he asked him

(Testimony of Henry Golem.)

for his rover's button? That was on January 1st.

A. He asked him what he was doing there and where was his rover's button.

Q. Did Fisher reply to that?

A. Yes, sir; he told he was talking to the janitor about raincoats, and he said he had a rover's button, and he got it out of his pocket.

Mr. Harrington: I have no further questions.

Redirect Examination

Q. (By Mr. Harrington) Did you have any conversations at any time with Mr. Fisher to the effect that these bulletins were posted about leaving the department didn't apply to him? A. No.

Q. Did you ever have any conversation with Mr. Fisher in which you told him he would get along faster if he left off any union activities?

A. No, sir.

Mr. Riggs: I think that is all, Mr. Golem.

Trial Examiner Hektoen: That is all. Thank you, Mr. Golem.

(Witness excused.) [761]

Mr. Riggs: Mr. Powell.

STEPHAN J. POWELL,

a witness called by and on behalf of the Respondent, being first duly sworn, was examined and testified as follows:

(Testimony of Stephan J. Powell.)

Direct Examination

Q. (By Mr. Riggs) Your full name and address?

A. Stephan J. Powell, 1805 Frederick Street, Fort Worth, Texas.

Q. Are you employed by Consolidated?

A. I am.

Q. What is your present position?

A. Factory manager of the Fort Worth Division, Plant 3.

Q. What does that plant consist of?

A. It consists of—I don't quite understand; the whole plant, you mean?

Q. What amount of ground does it cover? How long is it?

A. Oh, it is 4000 feet long, and I think it is 350 feet wide.

Q. What was your position before you went to Fort Worth.

A. I was assistant factory manager under Mr. Newman's supervision.

Q. Of the Parts Plant, in San Diego?

A. Of the Parts Plant, Plant 2, San Diego, yes.

Q. When did you transfer to Fort Worth?

A. March 19, I left San Diego March 19th. [762]

Q. Was that since the time Mr. Newman left?

A. That is correct. Mr. Newman got there about two weeks before, and then he came back and Mr. Newman and I left together.

Q. Prior to your being assistant to the factory

(Testimony of Stephan J. Powell.)

manager of the Parts Plant, had you been employed at the Home Plant? A. Yes.

Q. When were you employed at the Home Plant?

A. I worked with the company since 1925, so I don't know. I couldn't answer that, just when; continuously.

Q. You are one of the men that came from Buffalo in 1935? A. Yes.

Q. The early part of 1941, what was your position with the company?

A. I became foreman in the wing department.

Q. Where was that located?

A. In Building No. 1, part in Building No. 4, and the PBY section or division was in Building No. 3.

Q. Were those all at Plant No. 1?

A. Those were all at Plant No. 1.

Q. Who is the manager of Plant No. 1?

A. Mr. Kelly.

Q. And you were the foreman of the wing department? A. Yes.

Q. Did Mr. Fisher work under you there?

[763]

A. He did.

Q. Did he work there from January to July of 1941? A. He did.

Q. Did you have any conversation with Mr. Fisher with reference to his union activities, in July of 1940? A. Yes, I believe I did.

Q. Do you remember what that was?

(Testimony of Stephan J. Powell.)

A. I do, in one instance, where I told him—pardon me; may I make a correction? He told me he was appointed a committeeman, that he would have to leave his department from time to time, and I told him he cannot do that as long as I am the foreman.

He said he got permission from the top man, that he was allowed to do that.

I said, "Well, I will find out, but until that time you are not allowed."

Q. Did you say, "You are not allowed to leave the department without my permission"?

A. Right.

Q. Was that permission required in writing, or was it oral?

A. No, it was not required in writing. He could call me or come to my desk and ask me if he could leave, and I would give him permission.

Q. You say he said he had permission from the top management, to leave, whenever he wanted?

[764]

A. Yes.

Q. Did he say who gave him the permission?

A. Yes.

Q. Who did he say gave him that permission?

A. He said Mr. Kelly gave him the permission.

Q. Did Mr. Fisher, during that period, from January of 1941, when he became a shop committeeman, up to the time he moved to the Parts Plant, come to you for permission to leave the department?

A. Yes, he did.

(Testimony of Stephan J. Powell.)

Q. Do you know whether or not there were occasions when he left the department without your permission?

A. Yes, he left several times, in fact, a number of times without my permission.

Q. Did you talk to him about those occasions?

A. I did.

Q. How many such conversations did you have?

A. They were numerous; I would say, I would have to guess at it. I am sorry.

Q. At that time was there any system of requiring a rover's badge to be obtained in order to leave the department? A. No.

Q. Was there any such rule in plant No. 1 at any time? A. Never, to my knowledge.

Q. When you went up to the Parts Plant, I think you said in [765] July, was it, 1941?

A. That is correct.

Q. Did Mr. Fisher also go up to the Parts Plant?

A. He came in about a month after I became assistant factory manager, roughly.

Q. Did Mr. Kelly have anything to do with the Parts Plant?

A. No, not whatsoever, at that time.

Q. Did you ever have a conversation with Mr. Fisher in which you told him if he would quit the union stuff you would see he was advanced to a better position? A. Never.

Q. What was the rule with reference to leaving his place of business for a union shop com-

(Testimony of Stephan J. Powell.)

mitteeman, to go anywhere in the same department?

A. They were allowed to do that. In fact, every man was allowed to go from one part of the department to another for any kind of business, getting some tools or anything at all.

Q. But in order to leave his department it was necessary to obtain permission from the foreman?

A. Correct.

Q. When you went up to the Parts Plant—this first bulletin of July, Respondent's Exhibit 2, which I think you heard about here on the stand—are you familiar with the one I am talking about?

A. I am. [766]

Q. After that was posted, did you have any conversation with Mr. Fisher in which you told him that didn't apply to him?

A. Never. Pardon me. Would you mind repeating the question?

Trial Examiner Hektoen: Read the question, Miss Reporter.

(Question read.)

The Witness: Yes, I had a conversation with him.

Q. (By Mr. Riggs): Did you ever have a conversation in which you told him that this bulletin—

A. I told him it does apply to him, as well as to any other member of that particular organization that is not specified on that memorandum.

Q. After you went up to the Parts Plant you

(Testimony of Stephan J. Powell.)

were no longer foreman in charge of Mr. Fisher, were you? A. No.

Q. Who was his foreman?

A. Mr. Mineah.

Q. And you had become Mr. Mineah's superior, to some extent, being assistant factory manager?

A. That is correct.

Q. Did you have any conversations with Mr. Fisher after he got up to the Parts Plant, about leaving his department to go to other departments?

A. Yes, I did. [767]

Q. Can you recall when the conversation was, or where?

A. Well, naturally it would have to be—it was before January 1, 1942, but I couldn't remember dates or the month.

Mr. Riggs: Read the question.

(Question read.)

Q. (By Mr. Riggs): After you got up to the Parts Plant, I am talking about.

A. It was in Building No. 3 where I had an office on the mezzanine floor, a temporary office, because the administration building wasn't finished yet.

Q. Can you remember the month?

A. It was shortly after Mr. Newman issued that order that each and every employee should have a rover's button in order to leave his department; sometime after.

Q. That bulletin was issued some time in August. Does that refresh your recollection?

(Testimony of Stephan J. Powell.)

A. That would be either September, around that time, August or September.

Q. Did you find, on your inspection of the plant, from time to time, Mr. Fisher in other departments?

A. Yes.

Q. When you saw him in other departments did he have a rover's button?

A. On several occasions he did not.

Q. Did you talk to him on the occasions when you found him [768] without a rover's button?

A. I did.

Q. Can you tell us how many of those occasions there were?

A. Well, I would have to guess. I just wouldn't remember the number; numerous, I would say; quite frequently; is that sufficient?

Q. Well, what do you mean by that? I don't mean to ask you the exact number of times, but would you say there were a couple of occasions a month?

A. Yes, I would say about twice a week.

Q. Twice a week? A. Yes.

Q. On those occasions that you found him without a rover's button, can you give us the substance of any conversation that you had with him as to what he said or what you said to him?

A. Well, he sort of—he would probably have legitimate business to be out, but it was the rule he broke in not asking for the button, or if he would ask for the button, he would get it from a

(Testimony of Stephan J. Powell.)

clerk, and he would tell him Mr. Mineah had told him to give him the button, on false pretense.

Mr. Ryan: I object to this; the witness couldn't possibly know what he said to the clerk. [769]

Trial Examiner Hektoen: Read the answer.

(Answer read.)

The Witness: He would receive the buttons on false pretense.

Trial Examiner Hektoen: Strike it out, Miss Reporter.

Q. (By Mr. Riggs): What was the substance of your conversation? You can't say what the conversations of other people have been, when you were not around. What did you say to Mr. Fisher and what did he say to you on any occasion you can think of, when you found him out of the department either with or without a rover's button?

A. Let me think. It's pretty hard to remember just what I said. I probably said: You are not on the job again.

Mr. Ryan: We don't care what he probably said. If *it something* he cannot remember, we object to it.

Trial Examiner Hektoen: Sustained.

Q. (By Mr. Riggs): Do you recall any conversation, Mr. Powell?

A. Let me think. I recall one instance.

Q. You will have to keep your voice up.

A. I say: I recall one instance, when I met him; it was ten minutes after the second whistle blew. I said: "What are you doing here?"

(Testimony of Stephan J. Powell.)

He said: "I was here during lunch time and I got tied up until now." [770]

I said, "Mr. Fisher, you will have to be on the job. You haven't got a button."

He says: "I haven't got a button, but I don't need a button during the lunch period; therefore, I haven't got a button; but I am going right now," so apparently he went.

Q. Do you recall when that was?

A. That was, I would say, November or December, somewhere around that time.

Q. Did he ever say to you in substance, in these conversations, Why, Mr. Powell, you gave me permission to leave my department at any time I wanted?

A. He did. I told him that was when I was the foreman, but it's different now.

Q. You mean that was when you were foreman down at Plant 1? A. Right.

Q. Did you say that now he was under another foreman? A. That is correct.

Q. Do you recall a meeting in the first two weeks of December, at which you were present, and Mr. Golem and other persons, at which the conversation came up as to whether Fisher had been given permission to be allowed to be called to the phone? A. I do.

Q. Can you state what the substance of that meeting was? [771] What was said by anybody?

A. He asked me if he was allowed to be called

(Testimony of Stephan J. Powell.)

to the telephone, and I thought that was okeh. I says, "If there is a call for you in that particular department the clerk will call you, and naturally you can answer."

Q. Was there anything said at that meeting about his being allowed to leave his department because he had already made arrangements with you about it?

A. I don't remember whether we discussed that or not.

Q. Had he made any arrangements with you about it, that he could leave his department?

A. Not in Plant 2.

Q. Do you recall being with Mr. Newman on January 1, 1942? A. I do.

Q. Where were you with him?

A. I was with him since 7:00 o'clock that particular morning.

Q. Where was that?

A. In the office; then we started a tour of inspection, starting at the south end of the plant.

Q. Who was with you?

A. Mr. Newman and Mr. Golem.

Q. What was your purpose in starting at the south end of the plant?

A. Well, we have done that periodically. [772]

Q. What did you go for?

A. To see just how—Mr. Newman would point out to us certain things he wanted done.

Q. Did you know that Mr. Fisher was out of his department on that day?

(Testimony of Stephan J. Powell.)

A. No, I didn't.

Q. Did you meet him anywhere, and if so, where?

A. Yes, we met him; Mr. Newman and Mr. Golem and I were walking now in Building No. 2, and we noticed Mr. Fisher and a dark colored man with him.

So, we approached him and he says, Mr. Newman says: "Where is your button?" The button wasn't outside. He says "Where is your button?"

Mr. Fisher pulled the button out of his pocket and he says: "Here it is."

He asked him: "What are you doing?"

He says, "I am going to Mr. Larimer's office, to try to find out about raincoats."

He says, "You know that is settled, about raincoats; go back to your job," and he did.

Q. Did Mr. Newman tear a button off of Mr. Fisher's shirt on that occasion?

A. He did not.

Q. After Mr. Fisher went back to his job, where did the three of you go? [773]

A. We started slowly from that particular building, and Mr. Newman says: "Say, I had better check; the chances are he got the button——"

Q. He decided to check? A. Yes.

Q. Where did you go?

A. We went right up to Mr. Mineah's desk.

Q. Was that in the same building?

A. No, another building.

(Testimony of Stephan J. Powell.)

Q. Was that an adjacent building?

A. That is in the next building.

Q. And Mr. Mineah's desk was on the second mezzanine?

A. The first mezzanine, about the middle of the building.

Q. Was Mr. Mineah there?

A. Not at that moment, but the clerk went out to look for him.

Q. When Mr. Mineah came, what was said with reference to his having given Mr. Fisher—

A. Mr. Newman—

Q. Wait a minute. —Mr. Fisher permission to leave?

A. Mr. Newman asked Mr. Mineah did he ask permission to leave his department, and Mr. Mineah said: No.

Q. Had Mr. Newman asked Mr. Fisher anything about that when he met him in the building, just before you went there?

A. I don't remember whether he asked him if he has—I [774] believe he did.

Q. You don't quite remember that?

A. I don't remember.

Q. Do you remember a meeting where Mr. Fisher brought up a grievance that Mr. Mineah had sworn at him?

A. Repeat that.

Trial Examiner Hektoen: Read the question, Miss Reporter.

(Question read.)

(Testimony of Stephan J. Powell.)

The Witness: Yes, I do.

Q. (By Mr. Riggs): What was the substance of what happened with reference to that complaint of Mr. Fisher's?

A. I remember that very well, where Mr. Felton asked me if there wasn't something that could be done to kind of help Mineah's tactics in his department, the way he approached Mr. Fisher, and I told him: "I will do it; I will straighten it out."

Q. That was with reference to swearing?

A. That is right.

Q. Did you try to straighten out anything about Mr. Mineah's orders that Fisher couldn't leave the department without his permission?

A. No. I never did give any foremen any such authority, that he could let any man rove around the plant without permission of the foreman. [775]

Q. After you went up to the Parts Plant and Fisher was there, did you have a conversation with him in which you told him to go ahead and do the same thing he had done in the past, follow the same procedure about leaving the department?

A. I don't remember. I don't believe I did.

Q. That was after he had moved up there under another foreman?

A. Well, repeat the question again.

Trial Examiner Hektoen: Read the question.

(Question read.)

The Witness: No, I still say I didn't.

(Testimony of Stephan J. Powell.)

Q. (By Mr. Riggs): I am sorry; I can't hear you.

A. I says, I did not give him any such permission or any authority.

Q. Did you have any such conversation?

A. I don't remember.

Q. To give him permission in the Parts Plant to go ahead and do the way he had done in Plant 1, when he was under you as foreman?

A. No, I did not.

Q. Did you give him such permission at any time after he got to the Parts Plant?

A. No, I did not.

Mr. Riggs: That is all. [776]

Cross Examination

By Mr. Harrington:

Q. Did Mr. Kelly ever have anything to do with the Parts Plant? A. No.

Q. Did the janitors work out in the rain in the Parts Plant? A. Not to my knowledge.

Q. What happened at that meeting where Fisher brought up the grievance about Mineah's swearing? What was said at that meeting by you?

A. Well, Mr. Fisher, his grievance came up, and he didn't want to speak about it himself, and naturally, Mr. Felton got up and he says, "Mr. Powell, could you do something to Mr. Mineah?" He says, "You know he swears at Fisher" and so forth.

(Testimony of Stephan J. Powell.)

And I said, "That will be straightened out."

That was the end of the grievance.

Q. What else occurred at that meeting?

A. Several small grievances, that I don't remember.

Q. Was the subject of Fisher's leaving the department brought up?

A. I don't think so.

Q. How long was Fisher under you while you were foreman? A. About 11 months.

Q. And then in the Parts Plant you were assistant factory [777] manager all the time Fisher worked there?

A. Pardon me, no. Then I became assistant factory manager the day I got in the Parts Plant.

Q. Were you assistant factory manager all the time Fisher worked at the Parts Plant?

A. Yes; all the time Fisher worked at the Parts Plant I was assistant factory manager.

Mr. Harrington: I have no further questions.

Q. (By Trial Examiner Hektoen): Mr. Powell, you said something, I don't remember when it was, or in what connection, about Fisher having come to you and said that now he was a shop committeeman, or something of that kind, and he might have to go various places?

A. That was when I was foreman at the Home Plant.

Q. Then what happened after that?

A. Then he told me he got permission from

(Testimony of Stephan J. Powell.)

Mr. Kelly and I didn't quite believe that. I said, "Let's go to see Mr. Kelly."

So he challenged me, and walked right up to his office, and I figured: "If he has gone that far, he must be honest about it"; and I said: "Apparently you have the permission."

Q. After that there was no question about it?

A. After that there was no question about it, but he still had to let me know when leaving his department.

Q. Then he went over to the Parts Plant, and you said it [778] was changed since you were foreman?

A. That is correct. I couldn't go contrary to Mr. Newman's orders. He laid the law, and I had to abide by it.

Q. When did you tell Mr. Fisher the thing was changed?

A. I don't remember specifically; the notice was in the sheets. He read it and naturally I thought he knew without me telling.

Q. You didn't specifically tell him anything?

A. I don't remember I did.

Trial Examiner Hektoen: That is all I have.

Redirect Examination

By Mr. Riggs:

Q. When Mr. Fisher told you he had permission from Mr. Kelly to go around, did he say it was within the department, or outside the department?

A. Well, he gave me to understand he had per-

(Testimony of Stephan J. Powell.)

mission from Mr. Kelly to go all over the shop.

Q. And did you believe him?

A. I did not.

Q. You said you started to Mr. Kelly's office, to check up on it?

A. He made me believe, then, that he was right.

Mr. Riggs: That is all I have.

Recross Examination

By Mr. Harrington:

Q. Was Mr. Kelly over Mr. Newman and Mr. Powell?

A. In Plant 1, yes. Mr. Newman was assistant factory [779] manager and assistant chief test pilot at that time, in Plant 1.

Q. Did Mr. Kelly have authority over Mr. Newman in Plant No. 2?

A. Theoretically he had, yes; not in Plant 1.

Trial Examiner Hektoen: Read the question, Miss Reporter.

(The question was read.)

The Witness: No.

Mr. Harrington: Nothing further.

Trial Examiner Hektoen: That is all, Mr. Powell. Thank you.

(Witness excused.)

Mr. Riggs: Mr. Vance.

THOMAS F. VANCE,

a witness called by and on behalf of the Respondent, being first duly sworn, was examined, and testified as follows:

Direct Examination

By Mr. Riggs:

Q. Your full name and address?

A. Thomas F. Vance, Carlsbad, California.

Q. Are you employed by Consolidated, and, if so, in what capacity?

A. I am employed in the capacity of supervisor in the labor relations division.

Q. How long have you been connected with the company? [780]

A. I was employed January 12, 1942.

Q. Prior to that time what had been your position?

A. Prior to coming with Consolidated?

Q. That is what I asked you.

A. I had been engaged as manufacturer's agent, manufacturing and selling various articles.

Q. Since you came to Consolidated has there been a reorganization of the industrial relations department? A. There has.

Q. Tell me what was the situation when you first got there?

A. There were a number of departments, such as the education department, personnel department, labor relations department, but they were not inter-

(Testimony of Thomas F. Vance.)

related and coordinated.

Q. Who was the head of the labor relations department at that time? A. Mr. Wiseman.

Q. Is he with the company now?

A. He is not.

Q. When did he sever his relations with the company? A. May 29, 1942.

Q. Who was the director of the industrial relations? A. At that time?

Trial Examiner Hektoen: What is the difference between labor relations and industrial relations?

Mr. Riggs: That is what I want to bring out by this [781] chart which I will show you in just a moment.

The Witness: Mr. Persons became director of industrial relations on the 9th of April, 1942.

Q. (By Mr. Riggs): Had he been with the company before? A. No.

Q. Who is the head of the labor relations division or department at the present time?

A. Walter Bower.

Q. When did he become connected with the company?

A. On the 10th of June, 1942.

Q. I show you a chart made up showing relations of the industrial relations department to its various divisions, and ask you if that has been prepared under your supervision?

A. It was prepared in our department.

(Testimony of Thomas F. Vance.)

Q. You assume the responsibility for its accuracy? A. I do.

Mr. Riggs: I would like to offer this in evidence. I don't know whether it has any particular relevancy, but I think it shows the size and magnitude of the company's relations at the present time.

Trial Examiner Hektoen: All right, Mr. Harrington.

Mr. Harrington: Yes.

Trial Examiner Hektoen: Admitted as Respondent's Exhibit 13 in evidence.

(The document referred to was marked as Respondent's Exhibit 13 and received in evidence.) [782]

Q. (By Mr. Riggs): Can you tell us, Mr. Vance, how many grievances have been presented to the company by the union since March 5th until the close of business on September 5th?

A. It's in excess of 650, 397 cases, but we also had informal grievances.

Q. What is the difference between the formal and informal grievances?

A. The difference is that simply of terminology. The formal grievances are those provided by the union agreement. The informal is where some matter concerning the union agreement arises, and a business representative writes us a letter, or telephones us, and we look into the matter, and the handling is practically the same.

(Testimony of Thomas F. Vance.)

Q. Well, now, can you state when you began to keep a record of grievances?

A. On the 5th of March, 1942.

Q. That was the date of the new grievance procedure in the union agreement was adopted, was it not?

A. That is correct.

Q. How many formal grievances have you had since that adoption?

A. Right around 400.

Q. How many of those are from plant 1, and how many from plant 2 [783]

A. 270 in Plant 1, and 127 in Plant 2.

Q. What happened during August as to the number of new grievances over the old ones?

A. There were 74 new grievances, 47 in Plant 1, and 27 in Plant 2.

Q. Was that about an average month's number?

A. That is average.

Q. That is, about 74 a month?

A. That's just about an average month.

Q. You are referring to the formal written grievances?

A. Yes.

Q. But not to the informal grievances that were brought up in meetings or over the telephone?

A. No.

Q. How many of these grievances were pending on September 5th?

A. 23 in both plants, 15 in Plant 1 and 8 in Plant 2.

Q. Had all the rest of them been settled?

A. That is correct.

Q. And by "settled" I mean the grievances had

(Testimony of Thomas F. Vance.)

either been withdrawn, some with the company's assistance and some with the union's assistance, and some were compromised, which were satisfactory to both parties? A. That is correct.

Q. So that none, at the present time, haven't been settled, [784] except the current ones you spoke of, which are in progress? A. That is correct.

Mr. Riggs: May we go off the record, please?

Trial Examiner Hektoen: Off the record.

(Discussion off the record.)

Trial Examiner Hektoen: On the record.

Q. (By Mr. Riggs) Have you sat on the wage review board from time to time? A. I have.

Q. Have you represented the company on those occasions? A. I did.

Q. How many of the wage review boards have you sat on?

A. I sat on the lower wage review board at Plant 2 for approximately four weeks, and the appeal board, which is the board to which the cases not decided in all the lower boards, the cases are appealed to, for about three weeks, at Plant No. 1.

Q. During the time when you sat as one of the company's representatives, with some of the representatives of the union, were there occasions when the union demanded greater increases for union men than they demanded for non-union men?

A. There were such times.

Q. Were they numerous or seldom?

Mr. Ryan: Mr. Examiner, I object to that as immaterial. [785]

(Testimony of Thomas F. Vance.)

Mr. Riggs: I am not going to pursue it any further. I am not going to bring out any individual cases, not to prolong the hearing.

Trial Examiner Hektoen: He may answer. What were they? Numerous or scattered?

The Witness: Scattered instances.

Q. (By Mr. Riggs) That is, for the same kind of men doing the same kind of work?

A. Right.

Mr. Harrington: I will object to that as calling for a conclusion of the witness.

Trial Examiner Hektoen: Sustained.

Mr. Riggs: I will withdraw the question.

Q. (By Mr. Riggs) I also show you some statistics that purport to have been made up in the industrial relations department with reference to average hours and earnings. Can you state that those statistics were made up in that department from the records of the department?

A. Yes, they were made up in the industrial relations department.

Q. And were they made up by clerks and employees under your supervision, in that department?

A. That is correct.

Q. Can you vouch for their accuracy?

A. I can so vouch. [786]

Mr. Riggs: I will offer these in evidence, this table which shows the average hours and earnings, showing the average weekly earnings and the aver-

(Testimony of Thomas F. Vance.)

age hours per week and the average hourly earnings from 1935 to and through August, 1942.

Trial Examiner Hektoen: Well, it is interesting, but what does it prove?

Mr. Riggs: The constant increase in weekly earnings and the average hours, since that time.

Trial Examiner Hektoen: Do you want it in?

Mr. Riggs: I would like to have it.

Trial Examiner Hektoen: All right. Show it to Mr. Harrington.

Mr. Ryan: We object to it as immaterial.

Trial Examiner Hektoen: They may be admitted as Respondent's Exhibit 14.

(The document referred to was marked as Respondent's Exhibit No. 14, and received in evidence.)

Mr. Riggs: That is all I have from Mr. Vance, Mr. Examiner.

Cross Examination

Q. (By Mr. Harrington) For the period March 5 to September 5, since these grievances were presented, has any grievance been handled within the time set out in the contract?

A. They have all been handled, to the best of my knowledge, [787] within the time limits set out in the union agreement, unless by mutual agreement with the union more time was taken.

Trial Examiner Hektoen: You have reference to this 24 hour provision, Mr. Harrington?

Mr. Harrington: Yes, in Section 9. I have no further questions.

(Testimony of Thomas F. Vance.)

Trial Examiner Hektoen: Thank you, Mr. Vance.
(Witness excused.)

Mr. Riggs: Mr. Shanahan.

WILLIAM A. SHANAHAN,

recalled as a witness by and on behalf of the Respondent, having been previously duly sworn, testified further as follows:

Trial Examiner Hektoen: You testified here before, Mr. Shanahan?

The Witness: I have, sir.

Redirect Examination

Q. (By Mr. Riggs) At the last hearing, Mr. Shanahan, on Saturday, Mr. Shannon presented six or seven names of persons that he said were union men, and union men who had obtained at the wage review board, no greater increases hourly than that originally proposed by the foreman. I have given you the names of those men. Will you kindly tell the Examiner what the facts with reference to these increases pro- [788] posed for these men are?

A. The facts are that when the increase of 6 cents was proposed by the foreman, Mr. Shannon immediately asked for an increase of 15 to 20 cents. We raised the point that it was impossible for us to continue to negotiate on the wage board with Mr. Shannon because of his excessive demands, and a recess was called, and the other two members of the union

(Testimony of William A. Shanahan.)

on the board held a conference with Mr. Shannon and attempted to have him rationalize his demands.

As a result of the protest of the foreman, also the inducements of the other members of the wage board representing the union, Mr. Shannon did accept five or six recommendations of the foremen.

Q. And that was how it happened they got no greater increase than the foreman had suggested?

A. That is correct.

Q. That was the result of negotiations which were conducted in the wage review board, by the other members of the union, after you said you didn't think it was possible to negotiate further with Mr. Shannon?

A. That is correct.

Q. Did he participate in the additional negotiations also?

A. That is correct.

Q. Did he agree to the increases proposed by the foreman after the meeting had reconvened? [789]

A. He did.

Mr. Riggs: That is all.

Recross Examination

Q. (By Mr. Harrington) Mr. Shanahan, these

Mr. Riggs: I beg your pardon, Mr. Harrington. May I ask one other question?

Mr. Harrington: Yes.

Redirect Examination

Q. (By Mr. Riggs) How many men were there that came up for the wage review board from April to, say, July, that Mr. Shannon had to consult with reference to wage increases?

(Testimony of William A. Shanahan.)

Mr. Ryan: May I have the question read?

Mr. Riggs: I will withdraw the question.

Q. (By Mr. Riggs) How many men came up before the wage review board in your department with which Mr. Shannon was concerned, between the time the board was inaugurated in April, up to, say, the present time?

A. From April through August there were approximately 120 persons reviewed.

Mr. Riggs: That is all.

Mr. Ryan: I move to strike the testimony as immaterial and irrelevant and having no bearing on the issues in this case.

Trial Examiner Hektoen: It is in, and it may stand, though I must confess I am still puzzled as to what it proves. [790]

Mr. Harrington: No questions.

Trial Examiner Hektoen: Thank you, Mr. Shanahan.

We will be in adjournment until 1:30.

(Whereupon, at 12:40 o'clock P. M., an adjournment was taken until 1:30 o'clock P.M. of the same date.) [791]

After Recess

(The hearing was reconvened at 1:30 o'clock P.M.)

Trial Examiner Hektoen: We will be in order, please.

Mr. Riggs: Mr. Kelly.

JAMES L. KELLY,

a witness called by and on behalf of the Respondent, being first duly sworn, was examined and testified as follows:

Direct Examination

Q. (By Mr. Riggs) Give your full name and address, please.

A. James L. Kelly, 3641 Hyacinth Drive.

Q. San Diego? A. San Diego.

Q. Are you connected with Consolidated?

A. Yes, sir.

Q. How long have you been connected with Consolidated? A. 15 years.

Q. Did you come out with the company from Buffalo to San Diego in 1935? A. I did.

Q. What is your position at the present time?

A. I am assistant vice-president of production.

Q. Where is your office? A. Building 14.

Q. Plant No. 1? [792] A. Plant No. 1.

Q. How long have you been vice president in charge of production?

A. Since January of this year.

Q. And prior to that time what was your position? A. Factory manager of Plant 1.

Q. Do you know Arthur J. Fisher?

A. Yes, sir.

Q. How long have you known him?

A. Oh, I would say about three years.

Q. Do you recall when he was working in Plant 1 under, I think, Mr. Steve Powell, as foreman?

(Testimony of James L. Kelly.)

A. Yes, I do.

Q. Did you ever have any conversation with Mr. Fisher while he was in Plant 1, between January of 1942, and June or July, 1942?

A. Not to my knowledge. I may have talked to him some place around the plant, but there was no meeting that I know of.

Q. I would like to correct that; 1941 should be the year, instead of 1942.

A. Well, the only time I talked to him would be during the monthly meetings of the union, that they had at the factory.

Q. At Plant 1? A. At Plant 1, yes. [793]

Q. At any time during that period from January to July, 1941, did you have any conversations with Mr. Fisher in which you told him he couldn't leave his department at any time he desired, without procuring his foreman's permission?

A. If I did have a conversation with him it was to the effect that he would have to have permission from the foreman or assistant foreman of the department, and that was understood by all employees in every department.

Q. Was that the practice of the company at that time? A. That was the practice.

Q. At that time did you have in force any practice of obtaining rover's buttons when a man left his department?

A. We never had the rover's buttons in Plant 1.

Q. You haven't got them today?

A. Haven't got them today.

(Testimony of James L. Kelly.)

Q. When Mr. Fisher left the plant 1 to go to plant No. 2, did you have any jurisdiction over him?

A. I had no jurisdiction over anything that was done at Plant 2.

Q. Did you have any conversation with him after he got to plant 2 about anything in connection with the company, or the union?

A. Not to my knowledge.

Mr. Riggs: That is all. [794]

Cross Examination

Q. (By Mr. Harrington) While you had supervision of Plant 1, did you ever have any occasion to hear of Fisher leaving his department?

A. Yes, I think I did.

Q. When?

A. I think it was in one of the other departments first, that he worked in.

Q. What was that about?

A. I don't know what it was about, but I think it was reported to me. That's when he worked in the sheet metal, I think.

Q. What was reported to you?

A. That he had left the department without permission.

Q. Did you do anything about this?

A. It was brought up in one of our meetings that they were not supposed to leave, and it was thoroughly understood by all union representatives that were at the meeting, that they had to obtain permission from the foreman or his assistants to leave the department.

(Testimony of James L. Kelly.)

Q. Was that the only time you heard of Fisher leaving his department?

A. No, they complained about him when he was working in the wing department.

Q. Was that before or after this? [795]

A. That was after that. He was rehired, as I recall, in the wing department after he worked in the sheet metal department.

Q. Did you personally ever give any specific instructions with respect to Fisher?

A. No, not him alone; to all of our employees.

Mr. Ryan: That is all.

Mr. Riggs: That is all, Mr. Kelly. Off the record.

Trial Examiner Hektoen: Off the record.

(Discussion off the record.)

Trial Examiner Hektoen: On the record.

Redirect Examination

Q. (By Mr. Riggs) Do you recall, Mr. Kelly, when Mr. Fisher was first discharged, and then rehired?

A. I recall the rehiring.

Q. Did you have any conference with Mr. Waskey or any people representing the union, with reference to his being rehired?

A. I had several people from the union that pleaded to have him rehired.

Q. Did you agree to have him rehired?

A. And after consideration I think of a month, I said I would rehire him on one condition, that he be put in the department where Mr. Waskey was.

Q. Did you have any talk with Mr. Waskey as to

(Testimony of James L. Kelly.)

who was [796] going to be responsible for him in the future?

A. I told Mr. Waskey he would have to be responsible for him; that is why I put him in his department.

Q. What did Mr. Waskey say?

A. He said he would try to take care of him.

Q. What did he mean by trying to take care of him?

Mr. Ryan: I object to that.

Mr. Riggs: I will withdraw it.

Q. (By Mr. Riggs) Did he say he would be responsible for his conduct in the future?

A. That's what he said, he would be responsible for his conduct.

Mr. Harrington: No questions.

Trial Examiner Hektoen: Thank you, Mr. Kelly.
(Witness excused.)

Mr. Riggs: I am practically ready to close our case, with the exception of one document I am waiting for which may or may not be admitted. I will say, frankly, it is about Mr. Newman's clerk, and Mr. Schmidt, who was present at this interview which was held in Mr. Newman's office on January 1. Both of them at the present time are employees of the company in Ft. Worth, and I have not been able to get them over here to testify. I expected an affidavit from the stenographer, Miss Resch, and I have already asked Mr. Harrington and Mr. Ryan whether they would be willing [797] to accept the affidavit in lieu of her testimony, and they were to give me an

(Testimony of James L. Kelly.)

answer after the recess today Of course, if they refuse to accept it, I can't do anything except close the case.

Trial Examiner Hektoen: Off the record.

(Discussion off the record.)

Trial Examiner Hektoen: On the record.

Mr. Ruggs: Mr. Harrington states he refuses to accept the affidavit in lieu of Miss Resch's testimony, and I don't really think it of sufficient importance to ask to have this trial continued to receive it. Therefore, I am ready to close the case.

Trial Examiner Hektoen: Very good.

Mr. Riggs: I will renew my motion to dismiss the matter, made at the end of the case made out by the Board.

Trial Examiner Hektoen: Those motions are taken under advisement and will be ruled upon in my intermediate report.

As I said when the hearing opened, I would be very glad to have some oral, not so much argument, as statements of what the various parties rely on in this case.

There are some rather subtle points, it seems to me, and I would be very glad to be certain I understand the positions of both the Board and the Respondent.

To that end, I spoke to both counsel a couple of days ago and said I would like to have something from them, and [798] this would seem about the time to do that.

(Testimony of James L. Kelly.)

Mr. Harrington: Mr. Examiner, I have one or two witnesses I was going to call on, on the question of checkoff in the plant, and activities of union committeemen, in rebuttal.

Trial Examiner Hektoen: I see. All right. I did not realize you had any rebuttal testimony.

REBUTTAL

Mr. Harrington: Mr. Perry.

L. A. PERRY,

recalled as a witness for the Board, having been previously duly sworn, was examined and testified further as follows:

Trial Examiner Hektoen: You are the same Mr. Perry who testified the other day?

The Witness: That is correct.

Direct Examination (Continued)

Q. (By Mr. Harrington) Before you were business agent of the union, you were a union committeeman in the plant?

A. Yes, I was union committeeman up until January 1 of 1941.

Q. For how long a period of time?

A. That was for approximately one year.

Q. And during that time what was the practice with committeemen leaving the department to engage in union business? [799]

(Testimony of L. A. Perry.)

A. I was not aware of any standard practice.

Q. What was the custom?

Mr. Riggs: I will object to this as being too remote, from the time under discussion; his union commitment ended January 1, 1941, he said.

Trial Examiner Hektoen: Is that correct?

The Witness: That is correct, sir.

Trial Examiner Hektoen: It would seem a little remote.

Q. (By Mr. Harrington) Are you familiar with the checkoff in the company's plant, and how it is worked? The checkoff on union dues?

A. You mean as to the dues deducted?

Q. Yes.

A. The fundamental procedure I am familiar with, yes. The exact details in the accounting office, I am not exactly familiar with those.

Mr. Harrington: I have no further questions.

Trial Examiner Hektoen: Thank you, Mr. Perry.

Mr. Riggs: No questions.

(Witness excused.)

Mr. Harrington: I have one further witness and I understand he is on his way here, Mr. Examiner.

Trial Examiner Hektoen: Shall we wait?

Mr. Harrington: Yes, please.

Trial Examiner Hektoen: We will be in recess until he [800] gets here.

(A recess was taken.)

Trial Examiner Hektoen: We will be in order.

[801]

Trial Examiner Hektoen: Anything else? If not, the Board rests again and the Respondent rests. Then I will repeat the remarks I started to make before the rebuttal.

We are ready to find out what this is all about. I suppose you had better start off, Mr. Harrington. [813]

Mr. Harrington: As to Section 8(1), I believe we have shown a continuous course of interference, restraint, and coercion, from August or September of 1941.

Blake, who was chairman of the shop committeemen in Plant No. 1, as such, had approximately 50 committeemen under him, and was required to handle all grievances that arose throughout the entire plant. He was removed from his position as head timekeeper for the Army hull to Vernon's office in August or September of 1941, and was put on miscellaneous timekeeping jobs.

This was admittedly because of his union activities. At that time Vernon told him that his union activities were occupying too much of his time.

Shortly thereafter, Blake was prevented from using the telephone by Vernon. He asked that the matter be taken up by union committeemen, and he straightened out with Kelly, but Vernon refused to do so.

Blake took the matter up, then, with the business representatives of the union, but he heard no more of the matter, and felt that the stamp of approval was thus put on his actions.

The company then moved him to a vault, where

there was no telephone available for his use. Then he was given a leave of absence, after that, and when he returned, although he had a year and a half's experience as a timekeeper, and [814] had been promoted to chief timekeeper in the Army hull, he was put to work sorting time cards, work upon which timekeepers are trained.

Dart, who was in charge of Plant No. 2, was instructed by Vernon to prevent Blake from using the telephone. Thus, we see in the case of Blake a continuous course of illegal, anti-union conduct by the company.

Then, we have the case of Barnes, who was a union committeeman in the accounting department, and who worked under Vernon. He participated in the wage review of April, 1942. Shortly after he became a union committeeman, he had requested a transfer, a year and a half before that time. It was refused, because it wasn't put in writing.

Shortly after being made a committeeman, Barnes was given a transfer that he had not requested and did not want, and he told the company, in the person of Vernon, that he did not want the transfer.

The company thus got rid of another union committeeman.

Condon, who was a union committeeman in the timekeeping department in April of 1942, attempted to take up a grievance with Shanahan, relating to the transfer of an employee, and was told by Shanahan that if the grievance was presented, the employee would be terminated. Further, Shanahan

told him that anyone who tried to do anything about the case, which was the Hardman case, was liable to get in trouble. [815]

This is not too subtle a method of coercing a union committeeman from performing his duty.

Then, we have the case of Shannon, who was a timekeeper in the timekeeping department. Just before the wage review in April, Shanahan asked him what he wanted to be in it for, anyway, and said that he was sacrificing his chances for advancement. He also asked him what it was going to get him.

In May, he suggested that Shannon sign the raises selected by him alone, without taking them up in the wage review, which was the proper method of handling the matter.

In June, Shanahan told Shannon to stay out of the tabulating and auditing departments. It was necessary for Shannon to go into those departments in order to learn the comparative jobs and the skills of men involved in the wage review. And he had been allowed to do that by the head timekeeper, Ellis, and the foreman in that department, Mr. Andres.

At this time Shanahan also told Shannon that he could make trouble for him and could probably get him removed as a union committeeman.

Also, in June, Shanahan asked Shannon to sign interim wage increase slips for two non-union men. Shannon refused to do so, because he felt that union men doing like work, and of like ability, should be given the same treatment. At that time Shanahan again asked him to drop the whole thing. He also

told Shannon to sign the raises, and that he could give [816] raises to anyone he wanted to, and that no one was going to stop him.

In May of 1942, production manager Perelle, sent a memorandum to Renison, on the subject of union dues.

Trial Examiner Hektoen: To whom?

Mr. Harrington: Renison, Board's Exhibit 10, stating that he should discuss with certain people their wishes concerning their remaining part of the union setup. In this connection, it should be noted that an employee's union affiliation or lack of union affiliation is no business of the company.

On the 8(3) we have two cases: Fisher's and Williamson's. Fisher was an employee for two years, from December, 1939 to January, 1942. He was a very active member of the union, from the very beginning of his employment with the company.

Early in 1940 Foreman Liegal told him that if it weren't for his union activities, Liegal would be able to do something for him in procuring a job he had requested. In January of 1941, Foreman Powell told Fisher that if he dropped the union stuff, he would be advanced to a better position. Fisher, however, continued his union activities.

In July of 1940 at a union meeting, Fisher successfully opposed a request by Major Fleet, that men work 40 hours a week before receiving time and a half, instead of receiving [817] overtime after 8 hours a day. Immediately thereafter he was dis-

charged, allegedly because of a mistake he had made three months previously.

The union succeeded in having Fisher rehired at that time. Fisher was union committeeman of the wing department in 1941, and was also plant chairman of the parts department when it opened in the spring of 1941. He was a very active committeeman and had a large number of employees to take care of. And as shop chairman, all the other committeemen brought their grievances up to him.

When Fisher first became committeeman, he made arrangements with Foreman Powell, on the procedure to follow when it would be necessary for him to leave his department. That arrangement was never countermanded. Fisher religiously followed those instructions without any difficulty whatsoever until December of 1941.

In December 13, 1941, this petition about men working the following Sunday was brought to Fisher by employees who sought his advice on it. Fisher acted, with respect to that petition, in accordance with his duties as a union committeeman. He was then accused, by plant manager Newman, of being a Jap lover, a Hitlerite, and a Communist, by plant manager Newman. Newman also told him, very pointedly and prophetically, as it turned out, that he was all done after the first of the year.[818]

On January 1st a grievance was brought to Fisher about janitors working in the rain without raincoats. Fisher told his supervisor, Gahlbeck, he might have to leave his department that day. He

received Gahlbeck's permission to do so. And in accordance with long established procedure, later he secured a rover's button from a clerk, in the foreman's absence. He met Newman, who told him to go back to work. A few minutes later Newman fired him, thus fulfilling his threat of December 13th.

Regardless of any so-called rule about men leaving the department, it is obvious Fisher followed the procedure set up with Powell. And that had never been challenged until December of 1941, and at that time he filed a grievance on it, and he was told to continue to follow that procedure.

Fisher was not the only committeeman who followed that procedure. Committeeman Harkins left his department dozens of times during that same period without seeing his foreman. Committeeman Thomas was told by his foreman he could leave his department at any time he wanted to, and he was to get a rover's button from the clerk.

Although the respondent has put on a host of witnesses to testify to Fisher's inefficiency, and his unsatisfactory attitude, it is highly significant that he was employed for over two years, and that he had received wage increases in that length of time, and that Mineah stated, on his discharge [819] slip, that he was "O. K." to rehire.

The next 8(3) is the case of Oliver H. Williamson. On April 14, Williamson was told by a fellow employee that the fellow employee had quit. After lunch that day, Williamson saw the fellow employee being removed from the plant in a manner in which

an employee who was discharged was removed. Williamson, in accordance with his duties as a union committeeman, went up to see what this matter was about. He started to discuss the matter with Foreman Liegel, when Foreman Liegel refused to discuss the matter and very pronouncedly accused him of being a labor agitator.

Williamson then wished to take up with the next highest individual, Hangen, this matter, and he and Liegel started to the plant, to see Hangen. When they saw Hangen, Liegel told Williamson how dumb he was, and this conversation with respect to Germans in the department, occurred. Williamson was then fired.

It is perfectly obvious that the incident arose in connection with Williamson's duties as a union committeeman, and that he was acting in his capacity as union committeeman at the time he was discharged. His subsequent reinstatement clearly shows that, because there was two weeks' pay which he did not receive; also, he was treated the same as a new employee.

On 8(1), that aspect of the case, we also have a continu- [820] ing course of refusal to bargain. The first was on December 13, this petition for the men to work on Sunday. The company not only arranged for the men to work on Sunday without consulting the union, but they did so in violation of the contract with the union, and over the union's objections.

Then, when the union took the matter up, the company settled it. The next incident is on in-

terim wage increases. Here, also, the company violated the contract and went ahead and handled the increases in its own fashion. When the union protested to the company they again settled the matter.

On the out-of-state hires, the company reduced the wages of these men and changed their wages without consulting the union. When the union protested this matter, the company settled it.

On the third shift proposition, the company went ahead and put the third shift into operation without consulting the union, and in violation of the provision in the contract. Although the union protested it, this matter has not been settled.

As to the overhead crane operators, the company went ahead and paid them in accordance with its own idea of what they should be paid. They didn't consult the union before doing so, and the matter was adjusted only after the union protested it.

Fisher's and Mergan's discharge were never taken up. [821] The union attempted to take them up and were told very definitely by Newman, who had been given authority to give such an answer, that the cases were closed, and that nothing further would be done on the matter.

Mr. Riggs: You mean Wiseman?

Mr. Harrington: Newman and Wiseman; I beg your pardon; Wiseman.

On the job classifications and wage rates the company has unilaterally set up these classifications and wage rates, has put them into effect without consulting the union, has kept them in effect, and

has refused to bargain with the union with respect to them.

This whole picture of 8(5) presents a pattern of refusal to bargain with the union. The company would go ahead, unilaterally, to do what it pleased; then, when the union caught up with it, make adjustments, and then shortly thereafter, they would go ahead and do what they pleased again and again.

That, I submit, Mr. Examiner, is not collective bargaining within the spirit or intent of the Act.

I have no further remarks.

Trial Examiner Hektoen: Let me ask you a couple of questions, Mr. Harrington.

With reference to Williamson, the union wrote the Regional Director a letter saying that everything was fine. [822] Right?

Mr. Harrington: Yes.

Trial Examiner Hektoen: And also, gave the same intimation as to the company. I don't know whether it was in writing or not. Is that right?

Mr. Harrington: I don't know about the company. I assume that is right.

Trial Examiner Hektoen: In any event, it seems to be at that point the Williamson case was settled. You say it was not settled, because he did not get his pay. Wasn't that also settled at that same time?

Mr. Harrington: No. It was not settled at that time, and my answer to that, Mr. Examiner, is that the Board is not bound by any private agreement between parties. When the Board feels there has been a violation of the Act, the Board proceeds, in

accordance with its duty, to investigate and to remedy that violation.

Trial Examiner Hektoen: That is true enough, but what about the Williamson matter, outside of that? Wasn't that whole question settled at the time he went back to work?

Mr. Harrington: No. My understanding of it is that he was reinstated on a different shift, under a different foreman, but he was not given his back pay.

Trial Examiner Hektoen: Under Mr. Tice, whom he likes very much. He wasn't given his back pay, but wasn't that [823] waived? Wasn't that part of the settlement, that he wouldn't get back pay?

Mr. Harrington: I don't believe there is anything in the record as to any waiving of that or any discussion of that. I am not aware of any arrangement of that sort that was made.

Trial Examiner Hektoen: Customarily, when those things are settled, what isn't taken care of specifically, is considered to be waived, isn't it?

Mr. Harrington: Not necessarily.

Trial Examiner Hektoen: Then, with reference to the third shift, is it the Board's position that the union asked the company to discuss an interpretation of the agreement with it, with reference to that Sunday morning double time business and that the company refused to do so?

Mr. Harrington: The Board's position is, further, that the company put that third shift into

effect, that is, as to the hours provision of it, without consulting the union.

Trial Examiner Hektoen: Right. Is what I have said part of the Board's position?

Mr. Harrington: Yes, that they refused to discuss it thereafter.

Trial Examiner Hektoen: Refused to discuss an interpretation of the contract?

Mr. Harrington: Yes. [824]

Trial Examiner Hektoen: The union had one interpretation and the company had another, and stuck to it, and did not discuss it with the union. Is that correct?

Mr. Harrington: That is right.

Trial Examiner Hektoen: All right, Mr. Riggs.

Mr. Riggs: Mr. Examiner, I think you can gather from the background of this case three things: First of all, the extreme magnitude and size of the company, and its extremely rapid growth, which may to some extent show the difficulties that the company has had in keeping up with the union, and some of its requests and demands.

Secondly, the change of management in the company which has ensued since January 1, 1942 in practically all of its top management.

Third, the extremely friendly personal relations between the members of the union and the members of the company, management, with reference to matters that have been testified to here. There have been no disagreements. There have been no

recriminations. There have been no accusations on either side.

Also, I think you can gather that from the time this agreement was first adopted, the company has studiously attempted to keep up and abide by its terms.

Now, this is not a case in which the question of collective bargaining, or the selection of an agent for collective [825] bargaining comes up. It is a case where this Board itself has selected the unit for collective bargaining, and the company and the union have entered into an agreement with reference to collective bargaining, and the way the agreement should be carried out.

That agreement, from the first, has contained provisions for arbitration of differences. Those arbitration provisions have been enlarged, with reference to grievances, by the adoption of the amendment of March 5, 1942. There have been arbitrations under the arbitration clause which have been requested by the union and which have been met by the company. None of the matters as to which complaint is now made by the Board, have been made the subject of a request for arbitration by the union.

Now, it may be, and I am not prepared to go into the law of this matter; I am quite sure that can be taken care of in some other way; it may be that the fact that the company and the union have entered into an agreement which provides for the settlement of their differences, if any, by being submitted to arbitration, does not provide an exclusive

remedy for the union. It may be, I am not prepared to concede that point, that the Board also may have jurisdiction in that the union, if it chooses not to arbitrate, under the union agreement, it may apply to the Board.

But, it seems to me a fact that the machinery is open [826] for the union to obtain speedy and direct settlement of any matters by arbitration, and its refusal to do so, and its application to the Board about trivial matters shows not a real desire to settle these matters by arbitration, but a desire to obtain from the Board, if necessary, some decision which may affect the company and its labor relations.

Now, taking up the case, first of all, of Mr. Williamson and Mr. Fisher, I think this testimony showed exactly the truth, between Mr. Williamson and the company, and the company's witnesses. There isn't any question but what Mr. Brown refused to work under a man who spoke with a German accent. There isn't any question that Mr. Williamson appeared and remonstrated. He said he was displeased. I think he was extremely angry. I think he is the kind of man you can see for yourself, upon the witness stand, who can lose his temper easily. There wasn't any question, and no denial of the fact that he was making a speech to the assembled employees. I think he said there were five or six, and our people said there were more than 10 or 12. I don't think it makes much difference.

But, at any rate, it was a disturbance which took

place at the plant and which Mr. Liegal, in his capacity as foreman, tried to stop.

Now, Mr. Williamson also said, as we recollect, that he took off his button and said he wasn't speaking as a [827] union man, but as an individual; that he wanted to talk with Mr. Liegal about the F. B. I., and complained about people in the plant, that the Axis was running the plant, and he didn't like Germans, and so forth. Under the circumstances, it isn't at all unlikely that Mr. Liegal got a little hot under the collar, and everybody was angry, and annoyed, and Mr. Williamson was discharged.

When it was brought to the attention of the company, by the union, they asked whether Mr. Williamson was a good workman, and it turned out he was. They negotiated, and sat down, and it was arranged that he be reinstated.

Mr. Roy Brown wrote this letter to the National Labor Relations Board, in which he says:

"This letter will serve as your official notice that in the matter of the charges now pending against the Consolidated Aircraft Corporation, which charges were filed by myself in behalf of Aeronautical Mechanics Lodge No. 1125, and relating specifically to Mr. Oliver H. Williamson have been settled to the satisfaction of our organization. Therefore, we wish to withdraw the particular charges against the Consolidated Aircraft Corporation."

That letter of April 30, 1942, says not a word about reservation of any claim for back pay. It was conceded, Mr. Williamson was reinstated with-

out any loss of seniority, [828] or other rights, and he went to work under a different foreman, as to whom he had no objection, as he testified.

This is the worst tempest in a teapot which I have seen lugged into a lawsuit to make a charge of unfair labor practices against a company. It doesn't seem to me that there can be a charge raised against a company for refusing to sit down and bargain, as to whether a man should be reinstated, after he has been fired. As I read the Act, it attempts to govern relations so long as they exist, between the employer and the employee. If a man has been fired and is no longer an employee, it doesn't seem to me it covers any claim that there must be collective bargaining. How could it be collective bargaining under those circumstances? The company says he was fired; the union says he ought to be back. You could have 5, 10, 15 or 20 conferences, and if neither party recedes from their position, there could be no determination of such an issue. It is not a case in which collective bargaining is either appropriate or required by the Act.

The case of Mr. Fisher has presented more testimony than any other. Mr. Fisher is a man, you can see from the way he acted on the stand, that wants to talk on every occasion. He always is in the right; everybody else is wrong. And no matter what happened, he always had an alibi for what happened. [829]

If one man met him, he had permission from

Mr. Kelly; if another met him, he had permission from Mr. Golem, and so on around.

It was extremely difficult to put your finger on Mr. Fisher, as to where he got authority for any of his visits around the plant.

My friend, Mr. Harrington, has given you a resume of this case, which might have stopped short before the company put on any evidence at all. Any suggestion that Mr. Fisher's testimony is incorrect is left entirely out of this matter.

I don't believe that the Examiner, who heard this testimony, is going to believe Mr. Fisher's statements with reference to what happened upon his discharge on the first of January, 1942, that Mr. Newman tore off his badge, and tore his shirt, and told him to go back to his department.

Mr. Newman was accompanied by two other men, that are employees of the company. If it means that because a man is an employee of the company, his testimony is unworthy of belief, then we are out of luck, because these things happen in a plant where the only people that would see it and can testify to it, are all employees of the company. It is significant there wasn't one single man brought from the plant to testify as to the truth of any statement Mr. Fisher has made on the stand.

And on the occasion of December 13, when Mr. Fisher was [830] found wandering out of his department, his excuse with reference to the janitors has been completely exploded by the testimony the company has presented. If you go back a moment,

you will remember that on the 10th of December, there had been a black-out, and on the 11th of December, or the 12th, I think it was, a petition was signed by some 400 men in the plant that they would like to have the plant immediately blackened out so they wouldn't lose a number of man-hours that had been lost in the black-out, they offered to do this voluntarily, on their own time.

You asked Mr. Newman, and I asked him, where that petition came from, and he said he didn't know. So far as he knew, I think he left the inference it either came from the men or the management of the plant, Plant 1. I don't think where it came from is material. If you think it is, I will try to find out.

No matter how it initiated, those men desired to get on with production, and they desired to go ahead and work, and be paid for their work instead of sitting around with a plant blacked out for hours, which kept them even from going home at the time of the closing whistle, by order of the Army and Navy.

Under those circumstances, when the bulletin was posted by Mr. Laddon, as he said, in response to Mr. Roosevelt's request for a seven-day week, war had been declared, the [831] bulletin was posted, and certain men could work if they desired, without pay, or if they wanted to punch the clock, they would get time and a half.

Maybe there should have been a consultation about that with the union. I am not prepared to state whether there should have been or should not have

been. But that petition was the natural result of the petition which had been signed by the employees two or three days before, because, you will recollect, one of the men who was here on the stand said he was a painter, and if that plant was going to be blackened out, as quickly as possible, it was essential the painters, as well as the other people, should work on that Sunday.

Mr. Fisher immediately made an opportunity to go over into the wood mill. I think you will recollect it was in the north end of the building away from where his duties should be performed; and Mr. Stark, and another foreman, telephoned to Mr. Newman and said there was a man there (I don't think they knew his name), who was talking with their men without their permission, and that on that occasion he sent for Fisher to come to his office. So far we have the testimony as to who was present, Mr. Fisher, in which he says Mr. Newman called him names, and Mr. Newman says he did not call him names, but he reminded him that there was a war on, and he also said he was on thin [832] ice, and if he didn't go back and keep to his job, he said, he didn't threaten him, but advised him to go back and keep to his job in the future. Both agreed as to the phrase: thin ice; as to the rest of the conversation, there is a divergence of recollection in reference to the matter.

Under the circumstances, it is extremely probable Mr. Newman was angry and that Mr. Fisher had got in his hair upon previous occasions, and that he sent him back to his work and told him to stay

there. He says: I am not threatening you, I am just warning you.

This testimony of Fisher's to the effect that all published notices and all rules applied to other people but not to him, must be taken as ridiculous. These two published notices that were published by Mr. Newman, as to what should be done, were official notices. If there had been any question of their not applying to him, it would be necessary for him to have a written reservation of them, or at least, some paper or some statement in writing that they didn't apply to him. He admitted on the December 13 occasion that he didn't have permission of the foreman, and he again admitted on January 1 that he did not have permission of the foreman. On the latter occasion, he had gone to a young clerk by the name of Pickett, and obtained a rover's badge.

Mr. Kimball, I think, you will recollect, testified he [833] knew Mr. Fisher had another rover's button which he kept in his possession, and he asked him where he got it and Fisher said: Wouldn't you like to know?

Mr. Fisher is just a plaint smarty-cat. He just wants, as his testimony showed, to run every department he is in. He disregarded all the rules or suggestions that he should abide by, by the ordinary rule that he must obtain the permission of his foreman, which Mr. Mineah testifies he told to him in person, and there isn't any doubt about it, because Fisher presented a grievance about that, in that Mineah had said that Kelly didn't have a damned thing, as I recall it, to do about running the parts

plant, and that he was running that department, and Fisher would have to get his permission to leave.

Mr. Fisher tried to tell you that after that grievance had been made the subject of some discussion at one of those union meetings, that he, Fisher, was sure somebody sat down on Mineah, so as to give him permission to continue as he had been doing under Mr. Golem, where he claimed when he was in the parts, in Plant No. 1, that he could go to another department whenever he wanted to.

Mr. Newman's testimony cleared up this difference between the procedure at Plant 1 and Plant 2, and also made clear, I think, as to what could be done by a union committeeman within his department, as distinguished from [834] what he could do outside of his department, and when he could leave.

At page 278 of the testimony, he said:

"A. Mr. Newman and Mr. Powell both said that they would talk to Mr. Mineah and kind of put him in his place a little bit.

"Q. At your request?

"A. No, not at my request.

"Q. Well, I mean in response to this.

"A. Yes, in response to the grievance.

"Q. In response to the grievance?

"A. Yes.

"Q. That Mr. Newman and Mr. Powell said that although Mr. Mineah told you you couldn't get out of your department without his consent, that they

were going to tell him that you could go whenever you wanted to. Was that the idea of it?

“A. No, they were going to tell him in regards to the language he used and the way that he approached me and told it to me.”

So, there wasn't any question of dressing down Mr. Mineah, or rescinding his instructions to Fisher that he couldn't leave the department without his, Mineah's, or the assistant foreman's consent.

It would be absurd in a plant of that size to suppose, [835] growing as it was, that one particular man transferred from one plant up to another could still run around all over the second plant upon the oral say-so of Mr. Powell, which had been granted to him, apparently, according to his testimony, and denied by Mr. Powell, at least eight or ten months before.

Now, it is true that Mr. Harkins and Mr. Thomas testified that in their department their foreman had given permission that they, not being chairmen of the shop committeemen, and there being, probably, few occasions upon which it would be necessary for them to do so, because there wouldn't be any necessity of their taking up grievances of people in other departments; the only time, possibly, being to go to the personnel office, or something like that; that the foreman told those two men that he trusted them, and so far as he was concerned, they could speak to his clerk, and they testified they did. Those men are highly respected and trusted employees of the company, and no one has anything to say with reference to criticism of their actions in leaving

the department, or their actions within the department. Naturally, men like that are trusted. Naturally, men like Fisher are not trusted. You can see from the man's manner, his expression, his desire to talk on every occasion (I think somebody said, here, that there never was anything that came up in the union which he didn't [836] speak about); that Fisher wanted to be heard on every subject.

When it comes to his previous discharge, which I had thought was out of the case, but Mr. Harrington still seems to rely upon it, he says that was due to Fisher's influence about the letter from Mr. Fleet about working more than 40 hours a week, that he was opposed to, and which was not adopted by the union. There isn't a bit of proof to the effect it was Fisher's influence that blocked that. He said he voted against it. He says there were others who voted for and against it. Whether Fisher had anything to do with its not being adopted, I don't know.

Then, he tried to say that Mr. Borg was not an efficient union committeeman, that he had proposed a union resolution, which Mr. Borg denied; and there is one other thing in Fisher's testimony which gives you a sidelight upon some of its truth, about that resolution. I asked him about Major Fleet's reasons, and he said Major Fleet, "wanted us to work 40 hours a week so he wouldn't have to pay us time and a half *an* any one day. He wanted to work us 10 hours.

"Q. Didn't he think that would speed up production?

“A. No, he didn’t think it would speed up production; he still don’t want to.

“Q. You are sure about it?

“A. Quite sure.” [837]

Of all the unmitigated lies for a man to tell, that is about the worst. This country was at war, and still is at war, and if he doesn’t know that Major Fleet has nothing to do with the management of that company at the present time, it is time he did know so; further than that, the fact that he says this company doesn’t want to speed of production is unwarranted, and an unmitigated bit of malicious talk on the part of Mr. Fisher. Any casual examination on a visit to that plant will show to the contrary.

Mr. Fisher knew perfectly well that when he was fired the first time, he was fired for unsatisfactory workmanship. It had nothing to do with union difficulties at all. He was taken back under the aegis of Mr. Waskey, who was president of the union at that time, and all hands agreed, except Mr. Fisher, that Mr. Waskey agreed to be responsible for his conduct in the future, and that was the reason they took him back; and he was mighty lucky to get back at that time, instead of being permanently kept out of employment by Consolidated.

As to his excuse for being in the department where he was, on January 1, 1942, with reference to the janitors, the evidence here has shown there was some talk about boots and coats, and so forth, for the janitors, in November or December, be-

tween the union and the management. The janitors at that time were all colored men. Previous to that time the [838] janitors had been white. The janitors' jobs in Plant 2 were to sweep the floors, keep them clean, and clean up the yards after the employees had had their lunches, as there is a great litter, on each one of those occasions.

None of the employees went out and had their lunches in the rain. No one meant that the janitors should go out and sweep in the rain. There are mechanical sweepers, and there is no use in going out and sweeping in the rain with a broom, anyway. The possibility or suggestion that the company was going to get those men raincoats and boots and rubber hats when they worked outside, was considered by Mr. Newman and Mr. Golem and Mr. Powell, and they decided they weren't going to do it, that the only people that were going to get those raincoats and boots and rubber hats were the maintenance men, the men that had to go out in the rain and spread tarpaulins and such, over things that had to be protected from the rain, and also people that repaired the pipes throughout the yard, when it was raining.

Fisher knew perfectly well when he was going down to see the committeeman for the janitors about the boots and coats, and so forth, that that was something that had been settled, so far as he was concerned. He was just making it again an excuse to get out of his department, whether he had a rover's button or not, and to consult with

the union shop man of the janitors about something which he knew at one time had been settled. I am not going to say anything more about the Fisher case. [839]

Mr. Mineah marked his slip, when he was discharged: "Available for rehire," in his department. There is no moral turpitude about Mr. Fisher. We didn't go into the question showing inefficiency of his work at that time. There is no testimony about inefficiency of his work which occurred prior to his first discharge. I didn't bring any testimony here, to speak of, about his work in the department when he was under Mr. Mineah. The greatest criticism of his conduct was these leaves he took from time to time. There was no statement on his blank showing the reason for his discharge, and that the company would never hire him again. If he went anywhere else, there would always be a statement of why he left, but nobody at Consolidated wants to prevent anybody from getting along anywhere else, even if he is fired for breaking rules at Consolidated, which showed on this certain slip.

As to his successive increases because of his efficiency, that is just nonsense. When he left he was getting \$1.06, of which 13 cents was the regular blanket raise which covered everybody in the plant, in October of 1941. Five of that brought it down to 93 cents. Then, there was a five-cent additional raise in July. That brought it down to 88 cents, so that from the time he entered the company's employ at 75 cents up until the time he left, when he

was getting 88 cents, he only got a 13-cent raise in two or three years; and you [840] have heard plenty of testimony here as to the raises that men get, hourly, during the six months review, that are in excess of that, in one jump.

I am going to take up this question of refusal to bargain. Our position with reference to Mr. Fisher and Mr. Williamson, as we are trying to give it to you here, is that it is clear that neither one of the discharges was caused by union activities; that Mr. Williamson was discharged because of a scene which was created in the plant; that he was restored, rehired, for duty; that he lost no seniority; that he is now working where he wants to work, or did, before his leave of absence, and the entire matter was settled entirely to the satisfaction of the union, and is a matter too trivial to be made a subject of a hearing such as this.

With respect to Fisher, we likewise say he was not discharged for union activities.

During the entire course of this hearing you have not heard of any accusation of people being discharged for union activities, except dragging in Mr. Mergen, as the third of these three men who were discharged. At the time under consideration, Mergen's case is not before you at all, except as to the point that the company declined to reinstate Mr. Mergen after many consultations, and his case is not before you for adjudication.

Think of it. Of the thousands of people in this plant, [841] and I think the testimony shows there were 273 union shop committeemen and at least

125 stewards at the present time, out of all those people, the only people they could dig up, with reference to discharge, (and there must have been many, because of the constant turn-over,) are these two; Fisher and Williamson. And if ever a man richly deserved discharge for violation of company's rules and general unsatisfactory conduct with reference to rules, Mr. Fisher deserved it, and should not be reinstated.

With reference to the claim that the company refused to bargain on certain matters, first of all, it is alleged that we circulated among the employees a petition to work on Sunday, December 14th, for time and a half. That was brought about by reason of the petition which had been signed on the 11th by four or five hundred of the employees, in which they volunteered their services. Will you read that exhibit? It says, "We volunteer our services with reference to blacking out the plant," and so forth. Immediately that was brought to the attention of the company, and remember, the union tells us here that regardless of the provision in the contract to the effect that there will be no strike or slow-down during the continuance of this agreement, (that is in paragraph 23,) they actually considered picketing the plant when that notice was published, in spite of the fact that the United States had gone to war several days before. [842]

It is extremely likely the management would want to get that plant blacked out, and they would want to speed up production, and they would want

to comply with the President's request for a seven-day week. If that is failure to bargain, in putting out that petition, it is a failure to bargain. It was immediately conceded, when it was brought to the management's attention, that the men that worked on that Sunday would receive double time pay.

This is another one of these things which has happened in the past, and is gone; and why it should be made a subject of the present charge that this company now refuses to bargain, is beyond me to say. That is another thing which is past, and over the hill.

Now, on the interim wage increases, there were some 300 of those which occurred, and the testimony will show in one department, the inspection department, that was settled in this way: Mr. Roy Brown, I think, testified the union did not care very much what was done with reference to them, although the company might have agreed to rescind them. And he thought the damage had been done by reason of the fact that the changes and increases had been made without consultation with the union and, apparently he figured at that time there was nothing the company could do to cure the matter; perhaps the only thing the company could do might have been to rescind the pay increases and take them away [843] from the men who received them.

Naturally, they didn't want to do that, and I think Mr. Brown is an extremely fair-minded individual, and I don't think he wanted them to do that either. At least, his testimony and the letter he wrote, which is in evidence, said that.

That went on to the point where there were constant talks about these interim wage increases and they finally got to the point where Mr. Leigh put out a memorandum consulting union committeemen on interim wage changes, which was dated April 11, 1942. That was got out with the full approval and consent of the union, and I think they testified they participated in its authorship.

Mr. Fleet, along in November of 1941, had Mr. Laddon put out a memorandum that there weren't going to be any more interim wage increases until the next wage review board in April of 1942; with that notice, he thought he had given the union about enough. You will recollect they got a five-cent increase; then they got a 13-cent increase, and then they had taken a strike vote with reference to those increases, and after they got the 13-cent increase per hour for every man in the plant, it probably didn't occur to the Major that there was any necessity for going on with wage increases for a while. And maybe he forgot about the contract. I don't know. He put out a bulletin and the union [844] objected to it and it was made the question of bargaining all through January and February.

Finally, Mr. Laddon put out another bulletin, which was dated January 22, 1942, that is Exhibit No. 7, as soon as they brought it to his attention. In that bulletin he said they would have interim wage increases after consultation with the union committeemen in the various departments, between the foremen and the union committeemen. Then

they worked it out further, and they went on, and after a great amount of consultation, they worked out the exact machinery as to how it should be done, in this Respondent's Exhibit 1, which has attached to it not only the memorandum from Mr. Leigh, in which he says: This is going to be done, but it also has attached to it the processes from which it was gotten up.

This sheet says: Interim wage recommendation. Name, department, clock number, present base rate, proposed increase, classification, foreman's comments, and committeeman's comments. This was to be followed in the future, and was to the complete satisfaction of the union as to the future. Although these men did receive the increases, in the inspection department previously, still they retained them. They were not taken away from them.

Another dead horse, which has no bearing at all is on the company's present attitude with reference to interim wage [845] increases, and as to which you have not heard a single bit of complaint; the only complaint you have heard is from us, that according to the policy of the union as published in their paper, and as admitted here by Mr. Shannon, the non-union man is the man that was discriminated against in the wage review cases, in violation of this provision in the agreement by which the union agreed, in respect to the company's agreement, that it will not discriminate against the union, and the union will not discriminate against the non-union men.

Now, the out-of-state hires, there is another one. There are four exhibits here: 11-A, B, C and D, with reference to these 22 men that were hired out of state as expert machinists and brought here. After they got here maybe, in some cases, the company was at fault; in others, the company claimed the men were not qualified to do the job they were hired for. In any event, some adjustment of wages had been made without consultation with the union, and after a number of bargaining meetings with the union, the letter from Mr. Fleet to Mr. Wilkerson, Exhibit 11-A, and the letter from Mr. Fleet to Mr. Wilkerson dated April 16, 1942, and the letter from Mr. Wilkerson to Mr. Fleet dated April 21, 1942, and another from Mr. Wilkerson to Mr. Wiseman, dated March 31, 1942, that was settled to the complete satisfaction of the union. That is another thing that is completely out of [846] this case, so far as the company's attitude at the present time is concerned.

We come to the question of the third shift. I don't think Mr. Harrington was quite right on what he said about that. He has quoted from his own witness' testimony. They did testify this matter of the third shift was taken up and was talked over with the union before the company decided to go on a three-shift basis, and the union's witnesses went so far as to say it was changed from two-shift to three-shift operation at their request. Then came the question as to the third shift on Sundays. Mr. Fleet testified that that matter of the third

shift on Sundays was made the subject of a number of consultations between the committee for the company and the committee for the union. Whether he said those consultations occurred before the third shift was ordered or not, I am not quite clear; but I don't think he meant that. I think he meant that the matter of the third shift, and the hours of work had been, necessarily, taken up and talked over before the third shifts were agreed upon.

Whether the question of overtime, or double pay, was a subject of those conversations, also, I do not think the testimony is clear about. But as to that, there is a plain difference of interpretation of an agreement. It isn't a question of refusal to bargain collectively; it isn't a [847] question of discrimination against the union. But the company took one position, that the union agreement should be construed in a certain way. This was on one particular day of the week; and the union took another position, and has never requested arbitration of the matter, but instead, made the matter one of complaint that we refused to bargain.

We have bargained all we can with reference to the matter, and the proper procedure in that case would be for the union to ask arbitration with reference to it, which we will gladly meet, and we will go before any impartial arbitrator at any time, and do away with the necessity of the expense of these proceedings, and get down to a quick decision, as we did with Mr. Robert Littler, when he was the impartial arbitrator on one or two other matters that came before us.

The next subject is the complaint about the crane operators. I confess I really do not get that. I thought I had got it. I thought that was one of these things still outstanding, (there had been a difference of opinion about it), until I remember Mr. Perry's redirect examination. Mr. Harrington asked him: "Mr. Perry, I believe you said the crane operators' cases had been adjusted in wage conference. Have those been individually adjusted?"

"A. They have.

"Q. Or were they mass adjustments? [848]

"A. They have.

". . . As soon as this action on the part of Mr. Wiseman was consummated, then we debated with Mr. Walsh as to exact action, and his statement was that the National Labor Relations Board—

"Mr. Riggs: I object to what Mr. Walsh said . . .

"The Witness: They have been settled on the individual basis, to the best of my knowledge."

There is another one of those things that is practically out of the window. I really don't know what it is brought in for. The crane operators got a rate of 75 cents an hour and they were increased; and they got the blanket increase, and then other men employed by the company, as they came in, naturally, they not being experts and not being with the company as long as the other men, they didn't get the same rate. The union apparently thinks that any man who comes into the plant is a robot, and after a couple of weeks is as good as the men who have been on the job a long time.

This was settled individually, so Mr. Perry says,

in the wage review board after negotiations between the company and the union and after consultation, apparently, with Mr. Walsh.

Now, we come to the question of job classification. There is very little I can add to that, outside of Mr. [849] Fleet's testimony. Mr. Fleet gave you the history of this company's relations with this union, how the job classification matter came about with the other aircraft companies in Southern California, that the job classification and stabilization had been made the subject of two consultations with the union in July of 1941, and the other companies also, and in the one in August of 1941, in Washington; and that it was at the request of Mr. Sidney Hillman, of the O. P. I. that the companies on this Coast undertook to stabilize wages and classify all the jobs. He also said there had a meeting as recently as July and August, and other meetings which I believe are in the offing, as soon as they can be called in Washington, with reference to the matter.

It is obviously impossible for one company on this coast to establish a classification of jobs and rates of pay with reference thereto which are not substantially outlined with the other companies. The purpose of stabilization is to provide a stabilization of wages and of jobs and also, to prevent migratory workers from leaving one place and going to another in search of better conditions and pay; and also, to bring up the standards of pay to a proper standard. That, obviously, cannot be done without the concurrence of the companies on this coast and of the va-

rious unions which are represented as the bargaining agents of the respective companies. [850]

This is a matter which has now passed out of this company's hands into the hands of government, and until that is done, until government has issued some fiat, or has called a conference to get somewhere with the matter, we have got to go along in our own way, which provides for individual judging of the individual man's merit, as to a wage increase.

Most of these union agreements have either one provision or another. They have the provision for collective bargaining about job classifications, or they have the provision for collective bargaining with reference to the individual; and, it is impossible to have your cake and eat it too.

This union has chosen the way of the agreement, which provides that every man should be judged individually upon his merit at the end of each six months of employment. That has been done, and it has worked out to the extent that wage reviews in on every month, will be held for men who have passed April, May, June, July and August, and from now the six months' anniversary. Whether it is satisfactory or whether it isn't, it is the way the union and the company have agreed to, and it is in process; that, naturally, excludes the bargaining with reference to job classifications, rates of pay, as well as the judgment of the merits of the individual.

Coming back to the testimony affecting, probably, Mr. [851] Shanahan and the Treasury Department alone, this is a collection of trivial complaints, which Mr. Shanahan, I think, explained when he

was on the stand. This one on Mr. Shannon, who has now become a shop committeeman, and testified that Mr. Shanahan had said to him: You had better cut out this union stuff, and so forth, Mr. Shanahan denied. Mr. Shanahan has five union committeemen in his department, and none of them said he said anything about this. Mr. Shannon is a fresh, brash, young committeeman. He conceived it to be his duty to grab for the moon every time there was a suggestion for an increase for a union man. You will remember he said he went into the department to find out which were union men and which were non-union men, and that he did bring here, finally, the names of some six or seven, out of 125, that he said finally they got at the wage review board that the foreman originally recommended, and that was only after a struggle, after his friends on the board had adjourned, and quieted him down, and then he agreed to what the foreman had originally agreed upon.

So far as the non-union men were concerned, there was a man named Kreutchcamp, and another man, who were non-union men. When Mr. Shannon pointed out to him, after the wage review board, that these men got an increase of something like three or four cents an hour less than the union men, and asked him to take it up, and to agree to sign the slip [852] that they should get the same as the union men, he came back with another demand: No, unless the union men got another three or four cents an hour, which would again put them, the non-union men, behind the union men.

They didn't get very far with Mr. Shanahan.

Mr. Shannon insisted at every wage review, except for the six men he spoke of, that all should go to the master board instead of being settled as most of the others were, in the primary board, with wage adjudication.

I can't see any union discrimination in that case. If there was any union discrimination Mr. Shannon would not be there. He is still there, and he is still shop committeeman, and how he can say Mr. Shanahan was going to get him removed as a shop committeeman I don't know. I do not believe Mr. Shanahan has that much influence with the union.

Now, Mr. Condon was a young gentleman who was a union shop committeeman for four days.

Trial Examiner Hektoen: Aren't we arguing about the facts now?

Mr. Riggs: That is all I am trying to do, yes, sir.

Trial Examiner Hektoen: You were to give me your position with reference to the law, I thought, more than these things. If you wish to go ahead, that is all right, but I do not think it is essential.

Mr. Riggs: I am sorry, if I have taken up your time. [853]

Trial Examiner Hektoen: Not at all.

Mr. Riggs: All I have been trying to do is explain the facts.

Trial Examiner Hektoen: And I am very eager to have them.

Mr. Riggs: I do not see that the law is clear at all, but I think the Examiner has had sufficient experience, probably, to fit the law into the facts after they have been developed. I am going into

agreed with that, that there is no latitude on the part of union shop committeemen, or the chairman of the committeemen, or anybody else in connection with the union, to solicit enrollment in the union upon company time or during company hours.

In conclusion, I would like to present a brief on the law, as soon as we have time, if you think that would be of any benefit to you. I do not want to have to go into the facts again. I am satisfied on some of these questions of veracity, particularly between Newman and Fisher, and some of those matters, that the Examiner cannot help but believe the company's version of these matters is correct. [856]

There is one thing I have overlooked, I see in my notes, and I do not want to overlook it, and that is the question of Perelle's memorandum, which was Exhibit 10 here, about men who would be put on salary. I think there were some ten of them getting out of the union, or having their union dues changed.

I examined somebody on one of those, I think the name of Loretta Murphy came up, and it was agreed she was still in the union and paying dues, and probably there are some of the others here, I have forgotten the extent that I went into that.

I do not know what the union's rules as to eligibility are. I presume if I was eligible to the union and they wanted me, I could join, but they certainly couldn't represent me as bargaining agents with the company, because that only ap-

plies to the hourly paid employees. The usual procedure, I think, as it has been testified to, is that when a man has been transferred from an hourly pay to salary, the company writes to the union and asks whether they want to have him released; and if they want him released, he is, and if they don't, he is not released. I think that is the procedure. Am I incorrect?

Mr. Roy Brown: I wish it were, but that is not the procedure.

Mr. Riggs: I can only say about Perelle's memorandum, [857] that I don't think any great harm was done by it. Maybe he hadn't consulted with counsel, or anybody else, as to what the provisions of the agreement were with reference to union dues and hourly employees. I don't think it is a matter of moment here, as to what happened in those precise contacts.

I can only say that I thank you for the patience with which you have listened to the case and the expedition with which you have run it off.

Trial Examiner Hektoen: Thank you very much.

May I ask you a couple of questions, Mr. Harrington, that are raised by Mr. Riggs? What about this arbitration setup?

Mr. Harrington: With respect to what, Mr. Examiner?

Trial Examiner Hektoen: With respect to many of the things that are in issue in the case. Mr. Riggs says the union hasn't gone through all the steps that are provided in the agreement, by not

asking for arbitration. What is your answer to that?

Mr. Harrington: The answer to that, of course, is that once again, the union is not required to go to arbitration under the Act. The Act states specifically that remedies excluded will not be affected by any other means of settlement.

Trial Examiner Hektoen: I understand that. It just [858] simply chooses to do that, rather than to go through the processes set up in the agreement. Is that correct?

Mr. Harrington: I don't know what the union's reasons would be as to specific cases. They have taken quite a number of them to arbitration. It may be the union feels arbitration is not satisfactory; that these violations continue.

Trial Examiner Hektoen: There was another interesting point Mr. Riggs raised. He seems to say, if I understand correctly, that inasmuch as it provides in the agreement that individual rates shall be bargained about, classifications are, therefore, excluded as a matter for collective bargaining. Is that right, Mr. Riggs?

Mr. Riggs: Substantially, yes, sir.

Trial Examiner Hektoen: All right. What is the answer to that?

Mr. Harrington: I don't think that follows at all. The fact is, this classification was set up unilaterally by the company, in the matter affecting rates and working conditions of these employees.

Trial Examiner Hektoen: And you think no

matter what is in the agreement, that is also a matter for collective bargaining?

Mr. Harrington: Yes.

Mr. Riggs: May I say, in response to that, whether or [859] not any particular individual comes within a certain classification, whether it is a minimum or top or rate range or classification of a job, is a matter for judgment upon that individual in the wage review board, and if it is a matter of grievance, it can be made a matter of arbitration.

Mr. Harrington: But you would have arbitration on probably 30 or 40 thousand cases at that plant.

Trial Examiner Hektoen: We have had testimony to that point, that it would be almost impossible.

Thank you very much, gentlemen.

There are one or two announcements before we close the record.

Mr. Ryan: Mr. Examiner, at this time we move to amend the complaint in this proceeding to conform to the proof, with respect to the correct spelling of names, dates, places, and matters of that kind.

Trial Examiner Hektoen: Formal matters; any objection, Mr. Riggs?

Mr. Riggs: I have no objection, provided I know what they are.

Trial Examiner Hektoen: Such a motion is usually made in these cases, in order to get correct spelling, and so forth.

Mr. Riggs: No, I have no objection to that at all. I think it might be important that I should know if there is [860] going to be a change in the date of some conversation from one year to another, or something like that.

Trial Examiner Hektoen: No, nothing like that. You did not have anything like that in mind, did you, Mr. Ryan?

Mr. Ryan: I do not have anything specific in mind. My motion went no further than a request to make the thing conform, not to change any of the issues, or prejudice the defense.

Trial Examiner Hektoen: Let me ask the parties about the exhibits. According to my records the Board has had introduced 25 exhibits, and they are all in evidence. The respondent has introduced 14 into evidence. Correct?

Mr. Riggs: Yes, sir.

Trial Examiner Hektoen: The reporter informs me none of Board's exhibits except 2 and 3 have duplicate copies; and that on the Respondent's exhibits, 1, 2, 3, 4, and 10 lack duplicates.

Today is September 8th, and I will order the parties to furnish the reporter at her Los Angeles office, the address of which she will give you, duplicates as indicated, by Saturday, September 12th. Is that time enough?

Mr. Riggs: Yes, sir.

Mr. Harrington: That will be satisfactory.

Trial Examiner Hektoen: As I said at the opening of the hearing, if the parties desire to file briefs they may do so, [861] by addressing them to me in

care of the Chief Trial Examiner in Washington.

This has not been a very long case, and I suggest 15 days would be adequate, if the briefs are postmarked on or before the 15th day from today.

Mr. Riggs: Would it be in order for Mr. Harrington to supply me with his brief first?

Mr. Harrington: I have no intention of filing a brief.

Mr. Riggs: As I understand it, then, the brief will be entirely upon legal matters, and not a brief upon the facts?

Trial Examiner Hektoen: That is correct. I have secured a great deal of help from the oral argument of the parties, although I do not say I wouldn't like to have a brief from you, Mr. Riggs; nevertheless, under the circumstances it would not be as important as it might be without argument.

Mr. Riggs: If I decide to file one, it is to be before what date?

Trial Examiner Hektoen: Before the 23rd.

There is one further announcement, to the effect that any party may, within 30 days after the date of the order transferring the case to the Board, pursuant to Section 33, Article 1, of the Rules and Regulations, file exceptions to the intermediate report, and a brief in support thereof.

[862]

Should any party desire to argue orally before The Board, request therefor must be made in writing to the Board within 20 days after the date of

the entry of the order transferring the case to the Board.

In the absence of anything further, the hearing is closed.

(Whereupon at 4:00 o'clock p.m., September 8, 1942, the hearing in the above-entitled matter was closed.)

[Endorsed]: Filed April 27, 1943. [863]

In the United States Circuit Court of Appeals
For the Ninth Circuit.
No. 10389

CONSOLIDATED AIRCRAFT CORPORATION,
Petitioner,
v.

NATIONAL LABOR RELATIONS BOARD,
Respondent.

CERTIFICATE OF THE NATIONAL LABOR
RELATIONS BOARD

The National Labor Relations Board, by its Chief of the Order Section, duly authorized by Section 1 of Article VI, Rules and Regulations of the National Labor Relations Board — Series 2, as amended, hereby certifies that the documents annexed hereto constitute a full and accurate transcript of the entire record in a proceeding had before said Board entitled, "In the Matter of Consolidated Aircraft Corporation and International As-

sociation of Machinists, Aircraft Lodge No. 1125, A.F.L.," the same being Case No. C-2378 before said Board, such transcript including the pleadings, testimony and evidence upon which the order of the Board in said proceeding was entered, and including also the findings and order of the Board.

Fully enumerated, said documents attached hereto are as follows:

(1) Stenographic transcript of testimony held before Josef L. Hektoen, Trial Examiner for the National Labor Relations Board, on September 1, 2, 3, 4, 5, and 8, 1942, together with all exhibits introduced into evidence.

(2) Copy of Trial Examiner Hektoen's Intermediate Report, dated October 16, 1942.

(3) Copy of order transferring case to the Board, dated October 20, 1942.

(4) Copy of respondent's letter, dated October 26, 1942, requesting oral argument before the Board, and extension of time to file brief and exceptions.

(5) Copy of letter, dated October 28, 1942, granting all parties extension of time to file brief and exceptions.

(6) Copy of respondent's exceptions to the Intermediate Report.

(7) Copy of notice of hearing for the purpose of oral argument, dated November 18, 1942.

(8) Copy of list of appearances at oral argument held before the Board December 3, 1942.

(9) Copy of decision, findings of fact, conclusions of law and order issued by the National Labor

Relations Board February 18, 1943, together with affidavit of service thereof.

In Testimony Whereof the Chief of the Order Section of the National Labor Relations Board, being thereunto duly authorized as aforesaid, has hereunto set his hand and affixed the seal of the National Labor Relations Board in the city of Washington, District of Columbia, this 21st day of April, 1943.

[Seal]

JOHN E. LAWYER

John E. Lawyer

Chief Order Section

National Labor Relations
Board.

[Endorsed]: No. 10389. United States Circuit Court of Appeals for the Ninth Circuit. Consolidated Aircraft Corporation, Petitioner, vs. National Labor Relations Board, Respondent. Transcript of Record. Upon Petition for Review and Enforcement of an Order of the National Labor Relations Board.

Filed April 27, 1943.

PAUL P. O'BRIEN,

Clerk of the United States Circuit Court of Appeals
for the Ninth Circuit.

In the United States Circuit Court of Appeals
For the Ninth Circuit
No. 10389

CONSOLIDATED AIRCRAFT CORPORATION,
Petitioner,

vs.

NATIONAL LABOR RELATIONS BOARD,
Respondent.

STIPULATION re PRINTING RECORD

It is hereby stipulated by and between the parties hereto that the clerk be requested to print the certified transcript of record filed in the above cause on April 27, 1943 as filed, with the following exceptions:

1. Eliminate that part of the stenographer's minutes containing all testimony of Joseph J. Blake, pages 11 to 29 inclusive and pages 801 to 812 inclusive.
2. Eliminate all testimony of Edward Barnes, pages 183 to 190, inclusive.
3. Eliminate all testimony of R. B. Felton, pages 299 to bottom of page 309, inclusive, and center of page 310, beginning "Hectoen: I let it in yesterday, etc.", to 326, inclusive.

ROYAL E. T. RIGGS

Counsel for Petitioner.

ERNEST A. GROSS

Counsel for Respondent.

Dated: May 10, 1943.

[Endorsed]: Filed May 21, 1943. Paul P.
O'Brien, Clerk.

[Title of Circuit Court of Appeals and Cause.]

STIPULATION re EXHIBITS

It is hereby stipulated by and between the parties hereto that there shall be eliminated from the printed record in the above entitled cause the following exhibits:

Respondent's Exhibit 7, Consolidated Aircraft Corporation's book "Rules for Employees", issued March 26, 1940, with the exception of the following:

 "Excerpt from Consolidated Aircraft Corporation's book, 'Rules for Employees', issued March 25, 1940:

 '2. Periods of Work

 * * *

 (b) No employee is permitted to leave his department during working hours without the authority of his foreman.' "

Respondent's Exhibit 10, agreement between Consolidated Aircraft Corporation and International Association of Machinists, dated June 12, 1941.

Respondent's Exhibit 13.

Respondent's Exhibit 14.

ROYAL E. T. RIGGS

Counsel for Petitioner.

ERNEST A. GROSS

Counsel for Respondent.

So ordered:

FRANCIS A. GARRECHT,
United States Circuit Judge.

Dated: June 1, 1943.

[Endorsed]: Filed June 11, 1943. Paul P.
O'Brien, Clerk.

[Title of Circuit Court of Appeals and Cause.]

STATEMENT OF POINTS

The petitioner, Consolidated Aircraft Corporation, herewith files a statement of the points on which the petitioner intends to rely in support of its petition for review herein:

Point I

There is no substantial evidence supporting the findings of the Board that the petitioner's conduct in connection with (a) the interim individual wage increases, (b) the petitions and notice of December 13, 1941, (c) the crane operators, (d) the employees hired outside of California, (e) the third shift and (f) job classifications, constituted interference with the rights of petitioner's employees under Section 7 of the National Labor Relations Act, 49 Stat. 449, herein called the Act.

Point II

The findings of the Board that the petitioner's conduct in connection with (a) the interim individual wage increases, (b) the petitions and notice of December 13, 1941, (c) the crane operators, (d) the

employees hired outside California, (e) the third shift and (f) job classifications constituted interference with the rights of the petitioner's employees under Section 7 of the Act are contrary to law.

Point III

The finding that the petitioner, by the statements of Superintendent Liegal to Williamson, has interfered with, restrained and coerced its employees in the exercise of the rights guaranteed in Section 7 of the Act, is not supported by substantial evidence and is contrary to the law.

Point IV

The finding that the petitioner, by the statements of Foremen Liegal and Powell and Plant Manager Newman to Fisher, has interfered with, restrained, and coerced its employees in the exercise of the rights guaranteed in Section 7 of the Act, is not supported by substantial evidence and is contrary to law.

Point V

The finding that the petitioner, by the statements of Treasurer Shanahan to Condon and Shannon, has interfered with, restrained, and coerced its employees in the exercise of the rights guaranteed in Section 7 of the Act, is not supported by substantial evidence and is contrary to law.

Point VI

The finding that the petitioner, by the acts and statements of Labor Relations Director Wiseman and Vice President Perelle in requiring employees to give up their membership in the Union when

they were promoted, has interfered with, restrained, and coerced its employees in the exercise of the rights guaranteed in Section 7 of the Act, is not supported by substantial evidence and is contrary to law.

Point VII

In order to justify the present entry of an order directing the petitioner to cease and desist from unfair labor practices there must be substantial evidence as to a course of conduct of unfair labor practices in the past from which reasonable inference can be drawn that such practices are likely to continue in the future.

Point VIII

A cease and desist order is unjustified upon the record.

Point IX

The Board erred in overruling the objection of the petitioner to the admission in evidence of Board's Exhibits 8(a) to (e) inclusive.

Point X

The order entered by the Board on the 18th day of February, 1943, should be annulled, vacated, and set aside, and the Board should be ordered and directed to dismiss the complaint and proceedings.

Respectfully submitted,
PRUITT, HALE AND
COURSEN

Attorneys for Petitioner
420 Lexington Avenue
New York City.

ROYAL E. T. RIGGS

Royal E. T. Riggs
Of Counsel
New York City.

San Diego, California

Dated: June 2, 1943.

Receipt acknowledged this 5th day of June, 1943.

ERNEST A. GROSS

Ernest A. Gross
Acting General Counsel
National Labor Relations
Board.

[Endorsed]: Filed June 12, 1943. Paul P.
O'Brien, Clerk.